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CIVIL AND POLITICAL RIGHTS INCLUDING THE QUESTIONS OF TORTURE AND DETENTION

Report of the Special Rapporteur, Sir Nigel Rodley, submitted pursuant to Commission on Human Rights resolution 2000/43*

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* The executive summary of this report is being circulated in all official languages. The report itself is contained in the annex to the executive summary and is being issued in the languages of submission only.

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Executive summary

The Special Rapporteur, Sir Nigel Rodley, submits his eighth report to the Commission. Chapter I deals with aspects of the mandate and methods of work. Chapter II summarizes his activities in 2000. Chapter III contains a summary of communications sent by the Special Rapporteur and replies from Governments, from 15 December 1999 to 15 December 2000. The Special Rapporteur transmitted information to or received responses from 100 countries. He sent 164 urgent appeals on behalf of more than 470 identified individuals. Observations by the Special Rapporteur on the situation with respect to allegations of torture in several countries are included in the report.

During the period under review the Special Rapporteur undertook two missions. The report on the visit to Azerbaijan (7-15 May) is contained in Addendum 1 to the present report and the report on the visit to Brazil (20 August-12 September) in Addendum 2.

Regarding country visits, in October 2000 the Permanent Representative of the Republic of Uzbekistan to the United Nations in New York gave an initial positive reaction to the Special Rapporteur's joint request with the Chairman-Rapporteur of the Working Group on Arbitrary Detention to visit that country, sent in June 2000. By letter dated 27 April 2000, the Special Rapporteur inquired whether the Russian Federation would consider the possibility of inviting him and the Special Rapporteur on violence against women, its causes and consequences, to undertake a joint visit to that country with respect to the situation in the Republic of Chechnya. By letter dated 11 September 2000, the Government extended an invitation to the Special Rapporteur on violence against women, its causes and consequences, to visit Russia, including the North Caucasus region. By letter dated 27 September 2000, the Special Rapporteurs inquired about the possibility of undertaking a joint mission. The Special Rapporteur followed up on this issue in a meeting with the First Counsellor of the Permanent Mission of the Russian Federation to the United Nations Office at Geneva in a meeting on 30 November. At a meeting with the Political Counsellor of the Permanent Mission of the People's Republic of China to the United Nations Office at Geneva on 30 November 2000, the Special Rapporteur sought to clarify the nature of the difficulties posed for the Government by his request (first made in 1995) for a fact-finding visit. The Political Counsellor confirmed the continuing applicability of his Government's February 1999 invitation for a "friendly visit". The Special Rapporteur's requests to visit India, Indonesia, Bahrain, Egypt, Tunisia and Algeria have not resulted in invitations.

No mandate-related issues have arisen during the year under review. The methods of work of the Special Rapporteur have been those followed previously, as approved most recently by the Commission in its resolution 2000/43, paragraph 25. In particular, he has continued to seek cooperation with holders of other Commission mandates to avoid duplication of activity in respect of country-specific initiatives. In view of the forthcoming World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, to be held in Durban (South Africa) from 31 August to 7 September 2001, the Special Rapporteur addresses the question of racism and related intolerance.

As his current mandate approaches its end, the Special Rapporteur briefly takes stock of the situation in respect of the problem of torture and cruel, inhuman and degrading treatment or punishment in his conclusions and recommendations.

The General Assembly in its resolution 54/156, paragraph 29, and the Commission in its resolution 2000/43, paragraph 33, requested the Special Rapporteur to present an interim report to the fifty-fifth session of the General Assembly on overall trends and developments with regard to his mandate. In October 2000, he accordingly submitted a report (A/55/290) to the Third Committee of the General Assembly under agenda item 116 (a). In that report, the Special Rapporteur addressed the following issues: gender-specific forms of torture; torture and children; torture and human rights defenders; reparation for victims of torture; and torture and poverty.

Annex

Report of the Special Rapporteur, Sir Nigel Rodley, submitted pursuant to Commission on Human Rights resolution 2000/43

[ENGLISH/FRENCH/SPANISH ONLY]

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Introduction

1. The mandate of the Special Rapporteur on torture, assigned since April 1993 to Sir Nigel Rodley (United Kingdom), was renewed for three more years by the Commission on Human Rights in its resolution 1998/38. In conformity with that resolution, the Special Rapporteur hereby submits his eighth report to the Commission. Chapter I deals with aspects of the mandate and methods of work. Chapter II summarizes his activities in 2000. Chapter III contains a summary of communications sent by the Special Rapporteur and replies from Governments, from 15 December 1999 to 15 December 2000. Chapter IV contains the Special Rapporteur's conclusions and recommendations.

2. In addition to the above-mentioned resolution, several other resolutions adopted by the Commission on Human Rights at its fifty-fifth session are also pertinent within the framework of the mandate and have been taken into consideration by the Special Rapporteur in examining and analysing the information brought to his attention. These resolutions are, in particular: 2000/31, "Extrajudicial, summary or arbitrary executions"; 2000/32, "Human rights and forensic science"; 2000/33, "Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief"; 2000/36, "Question of arbitrary detention"; 2000/37, "Question of enforced or involuntary disappearances"; 2000/38, "The right to freedom of opinion and expression"; 2000/39, "Human rights in the administration of justice, in particular juvenile justice"; 2000/41, "The right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms"; 2000/42, "Independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers"; 2000/45, "Elimination of violence against women"; 2000/53, "Internally displaced persons"; 2000/61, "Human rights defenders"; and 2000/68, "Impunity".

I. MANDATE AND METHODS OF WORK

3. No mandate-related issues have arisen during the year under review. The methods of work of the Special Rapporteur have been those followed previously, as approved most recently by the Commission in its resolution 2000/43, paragraph 25, and by the General Assembly in its resolution 55/89, paragraph 19. In particular, he has continued to seek cooperation with holders of other Commission mandates to avoid duplication of activity in respect of country-specific initiatives. Thus, he has sent urgent appeals, transmitted information alleging violations within his mandate to Governments and sought missions to Member States in conjunction with the following mechanisms: the Working Group on Arbitrary Detention; the Special Rapporteurs on extrajudicial, summary or arbitrary executions; the independence of judges and lawyers; the promotion and protection of the right to freedom of opinion and expression; violence against women, its causes and consequences; human rights defenders; the situation of human rights in the Democratic Republic of the Congo; the Special Representative of the Commission on the situation of human rights in the Islamic Republic of Iran; the Special Representative of the Secretary-General on internally displaced persons. However, the Special Rapporteur notes that the decision of the Working Group on Enforced or Involuntary Disappearances not to participate in joint actions with other mechanisms has made impossible joint activities that would otherwise have been indicated.

Racism and torture

4. In view of the forthcoming World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, to be held in Durban (South Africa) from 31 August to 7 September 2001, the Special Rapporteur would like to address the question of racism and related intolerance, which he believes is all too relevant to issues falling within his mandate.

5. Over the years, the Special Rapporteur has received information regarding a significant number of cases where the victims of torture and other cruel, inhuman or degrading treatment or punishment are members of minority racial or ethnic groups. While there is no evidence to suggest that members of racial or ethnic groups are generally subjected to particular forms of torture or ill-treatment applied uniquely to them in their status as members of these groups, it must be noted that they are particularly vulnerable with respect to torture in various contexts and that their status may also affect the consequences of their ill-treatment. While no statistics are available to the Special Rapporteur, it appears that members of racial or ethnic groups are disproportionately subjected to torture and other forms of ill-treatment. Indeed, ethnic difference may often contribute to the process of the dehumanization of the victim, which is often a necessary condition for torture and ill-treatment to take place.

6. According to research carried out on this issue,[1] ethnicity and race are seen by some law enforcement officials as indicators of criminality and often lead to a harsher treatment in their hands. In Western countries, persons having a "foreign look" are more at risk of being stopped and searched or detained on suspicion of having committed an offence. Allegations of racist ill-treatment are less likely to be effectively investigated. A number of cases also indicate that ill-treatment, including unnecessary methods of restraint, occurs at the time of arrest before any proper assessment of the situation is made. Ill-treatment in such cases is coupled with racial and xenophobic insults. Members of racial or ethnic groups are often considered as subcategory prisoners and detained in worse conditions of detention than the larger prison population.

7. Immigrants, migrant workers and asylum-seekers often encounter racist and xenophobic ill-treatment by officials in host countries, particularly in countries where xenophobic sentiment has been inflamed among the wider population. The Special Rapporteur has also received information on the poor conditions of accommodation or of detention of asylum-seekers in certain countries. During forced deportation, excessive and torturous methods of restraint, sometimes leading to death, have been reported.

8. With the resurgence of conflicts with an ethnic dimension in Africa, Asia, Eastern Europe and the Caucasus, torture, including mutilation and rape (sometimes a prelude to summary execution) has been used as a weapon of war to destroy or victimize, in whole or in part, a racial or ethnic group. In internal conflicts, torture has been used by both parties to the conflict, i.e., State agents in counter-insurgency operations and insurgent parties. Political manipulation of the media has exacerbated, or even created, perceived racial or ethnic differences and encouraged violence on the part of private individuals.

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[1] "Take a step to stamp out torture", Amnesty International, 2000, pp. 39-46.

9. Due prevention and diligence by law enforcement officials are also often lacking when such groups are under threat or attack from private citizens. Victims of racial assaults by private citizens are often denied access to complaint procedures. Clashes between different racial or ethnic groups have taken place with the acquiescence, or even the condoning, of public authorities. This lack of reaction from public officials further encourages such private violence.

10. In his report to the General Assembly (A/55/290), the Special Rapporteur observed that the overwhelming majority of those subjected to torture and ill-treatment were ordinary common criminal suspects from the lowest strata of society. In a number of countries, racial or ethnic minority groups make up the great majority of these strata. Again, the Special Rapporteur would like to stress that, because of their economic and educational situation, they are deprived of the means to claim and ensure the enforcement of their rights, including their rights to legal representation and to obtain legal remedies, such as compensation. Racial stereotyping also affects the judicial system, so that even in the presence of legal representation, impunity may prevail.

11. In terms of legal provisions encompassing these two notions, the Special Rapporteur wishes to draw the attention of the Commission to article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination, which provides that "... States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: ... (b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution." Article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide provides that: "... genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: ... (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part ...".

II. ACTIVITIES OF THE SPECIAL RAPPORTEUR

12. For the second time since the creation of the mandate, the Special Rapporteur was requested by the General Assembly, in its resolution 54/156, paragraph 29, and by the Commission, in its resolution 2000/43, paragraph 33, to present an interim report to the General Assembly at its fifty-fifth session on overall trends and developments with regard to his mandate. In November 2000, he accordingly submitted a report (A/55/290) to the Third Committee of the General Assembly under agenda item 116 (a). In this report, the Special Rapporteur addressed the following issues: gender-specific forms of torture; torture and children; torture and human rights defenders; reparation for victims of torture; and torture and poverty.

13. During the period under review the Special Rapporteur undertook two missions. The report on the visit to Azerbaijan (7-15 May) is contained in Addendum 1 to the present report and the report on the visit to Brazil (20 August-12 September) is contained in Addendum 2 to the present report.

14. In October 2000, the Permanent Representative of the Republic of Uzbekistan to the United Nations in New York gave an initial positive reaction to the Special Rapporteur's joint request with the Chairman-Rapporteur of the Working Group on Arbitrary Detention sent in June 2000 to visit that country. By letter dated 27 April 2000, the Special Rapporteur inquired whether the Government of the Russian Federation would consider the possibility of inviting him and the Special Rapporteur on violence against women, its causes and consequences, to undertake a joint visit to that country with respect to the situation in the Republic of Chechnya. By letter dated 11 September 2000, the Government conveyed an invitation to the Special Rapporteur on violence against women, its causes and consequences, to visit Russia, including the North Caucasus region. By letter dated 27 September 2000, the Special Rapporteurs inquired about the possibility of undertaking a joint mission. The Special Rapporteur followed-up on this issue in a meeting with the First Counsellor of the Permanent Mission of the Russian Federation to the United Nations Office at Geneva in a meeting on 30 November. At a meeting with the Political Counsellor of the Permanent Mission of the People's Republic of China to the United Nations Office at Geneva on 30 November 2000, the Special Rapporteur sought to clarify the nature of the difficulties posed for the Government by his request (first made in 1995) for a fact-finding visit. The Political Counsellor confirmed the continuing applicability of his Government's February 1999 invitation for a "friendly visit". The Special Rapporteur indicated his desire to find a solution that would be consistent with his commitment to undertaking a standard visit, with the usual methodology. The Special Rapporteur's requests to visit India (1993), Indonesia (1993), Egypt (1996), Algeria (1997), Bahrain (1998) and Tunisia (1998) have not resulted in invitations.

15. On 27 March 2000, the Special Rapporteur gave the keynote speech at the Organization for Security and Co-operation in Europe Supplementary Human Dimension Meeting on Human Rights and Inhuman Treatment or Punishment (Vienna). From 10 to 17 April, he participated in the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Vienna). On 16 May, he participated in a joint meeting of the United Nations Voluntary Fund for the Victims of Torture and the Committee against Torture. On 1 and 2 June, he participated in the Expert Consultation with the High Commissioner for Human Rights on Special Procedures and the Treaty Bodies, sponsored by the Carter Center and the Jacob Blaustein Institute for the Advancement of Human Rights (Geneva). From 5 to 9 June, he participated in the seventh Meeting of Special Rapporteurs/Representatives, Experts and Chairpersons of Working Groups of the Special Procedures of the Commission on Human Rights and of the Advisory Services Programme. On 22 September, he participated in the day of discussion of the Committee on the Rights of the Child on "State violence against children". He gave the keynote speech at the annual meeting of the International Helsinki Federation for Human Rights, held in Prague from 3 to 5 November, at the First Swedish NGO Forum on Human Rights, in Stockholm on 14 November. On 1 and 2 December, he participated in a round table with the newly-appointed Special Representative of the Secretary-General on human rights defenders, organized by the International Service for Human Rights. He also gave the keynote speech at the Conference on Protecting and Developing Human Rights on the Island of Ireland, in an International Context, in Dublin on 8 and 9 December organized by the Irish Department of Foreign Affairs, the United Kingdom Northern Ireland Office, the Office of the First Minister and Deputy First Minister of Northern Ireland and the human rights commissions and equality agencies of Ireland and Northern Ireland.

III. INFORMATION REVIEWED BY THE SPECIAL RAPPORTEUR WITH RESPECT TO VARIOUS COUNTRIES

16. During the period under review, the Special Rapporteur sent 66 letters to 60 countries on behalf of about 650 individuals and 28 groups involving about 2,250 persons. About 125 were known to be women and 50 were known to be minors. Together with individual cases, the Special Rapporteur also transmitted to Governments 19 allegations of a more general nature. The Special Rapporteur also sent 35 letters reminding the Governments of the following countries of a number of cases that had been transmitted in previous years: Brazil (1997 and 1998), Bulgaria (1996 and 1997), Cameroon (1998), Chad (1997), Colombia (1998), the Democratic Republic of the Congo (1998), El Salvador (1996), Equatorial Guinea (1998), Ethiopia (1997), Gambia (1998), Haiti (1997), Honduras (1998), India (1997 and 1998), Indonesia (1998), Iran (Islamic Republic of) (1998), Ivory Coast (1997), Jamaica (1998), Kenya (1996, 1997 and 1998), Libyan Arab Jamahiriya (1998), Morocco (1996), Myanmar (1996, 1997 and 1998), Nepal (1997 and 1998), Niger (1997), Nigeria (1998), Pakistan (1996, 1997 and 1998), Paraguay (1996), Peru (1998), Philippines (1998), Russian Federation (1997), Viet Nam (1998), Federal Republic of Yugoslavia (1997 and 1998), Yemen (1996), Zambia (1998), Zimbabwe (1998), and also the Palestinian Authority (1998). In addition, the Special Rapporteur sent 26 letters reminding Governments of a number of cases transmitted in 1999 with respect to which no reply had been received. The Special Rapporteur sent 164 urgent appeals to 56 Governments on behalf of about 470 individuals (of whom about 40 were known to be women and 35 to be minors) and 11 groups involving about 1,000 persons with regard to whom fears that they might be subjected to torture and other forms of ill-treatment had been expressed. Thirty-seven Governments provided the Special Rapporteur with replies on some 300 cases submitted during the year under review, whereas 25 did so with respect to some 400 cases submitted in previous years. Finally, the Special Rapporteur issued a press release on 5 March 2000 in conjunction with the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteurs on violence against women, its causes and consequences, and on extrajudicial, summary or arbitrary executions with respect to the situation in the Republic of Chechnya and on 22 November 2000 in conjunction with the Special Representative of the Secretary-General on human rights defenders, the Special Rapporteurs on violence against women, its causes and consequences, and on extrajudicial, summary or arbitrary executions with respect to the situation in the Province of Aceh.

17. This chapter contains, on a country-by-country basis, summaries of general allegations and individual cases, as well as of urgent appeals and government replies. Observations by the Special Rapporteur have also been included where applicable.

Albania

18. By letter dated 5 October 2000, the Special Rapporteur advised the Government that he had received information on the following individual case.

19. **Tonin Kolthi**, the Partia Demokratike (Democratic Party) secretary for the village of Spiten near Lezhe, and **three other DP supporters** from Lezha, were reportedly stopped by masked special police officers near Laç on 22 March 2000. Tonin Kolthi was said to have been immediately hit on the head with a rifle butt. Handcuffed, he was put into a police van and

driven to a location near Patok village on the coast, where he was beaten. He was later treated in hospital for bruises and abrasions about his head and body. The three other men who were stopped with Tonin Kolthi were also allegedly beaten by police at the place where they were stopped.

20. By letter dated 8 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1999 regarding which no reply had been received.

Algeria

21. Par une lettre datée du 14 août 2000, le Rapporteur spécial a informé le gouvernement qu'il avait reçu des renseignements sur les cas individuels suivants.

22. **Mohamed Zouaghi, Hacene Dimane, Abdelouahab Feroui** et **Nassima Fodali**, dont le mari serait recherché par les autorités, auraient été arrêtés à leur domicile à Alger en octobre 1999. Ils auraient été détenus au secret pendant 10 jours et auraient été torturés au cours d'interrogatoires qui portaient sur leurs contacts éventuels avec des membres de groupes armés. Ils auraient été soumis à des chocs électriques, brûlés avec des cigarettes et frappés. Ils auraient également été soumis à la technique dite du chiffon par laquelle un chiffon imbibé d'eau sale est appliqué sur la bouche de la victime dans le but de l'asphyxier.

23. Par une lettre datée du 2 octobre 2000, le gouvernement a indiqué que les recherches menées par les services de sécurité n'avaient pas permis d'identifier les personnes mentionnées ci-dessus.

24. Par une lettre datée du 10 octobre 2000, le Rapporteur spécial a informé le gouvernement qu'il avait reçu des renseignements sur les cas individuels suivants.

25. **Malik Medjnoune** aurait été arrêté le 28 septembre 1999 et aurait été torturé par des membres de la sécurité militaire jusqu'au moment de son incarcération à la prison de Tizi-Ouzou le 2 mai 2000. Il aurait reçu des coups de pied et été soumis à la technique dite du chiffon. Il aurait aussi reçu des chocs électriques. Il aurait été traité d'urgence à l'hôpital militaire de Blida au début du mois de février 2000.

26. **Farid Madani** aurait été arrêté le 10 octobre 1999 et aurait été torturé à la caserne de Ben Aknoum jusqu'à son incarcération le 28 novembre 1999 à la prison d'El Harrach. Il aurait été frappé avec le manche d'une pioche, aurait été soumis aux techniques dites du chiffon et de "finga", qui consiste à pendre quelqu'un par le cou jusqu'à ce qu'il perde connaissance.

27. **Khaled Yahi** aurait été arrêté le 5 février 2000 et aurait été détenu au secret au poste de commandement opérationnel de Dellys jusqu'au 5 mai 2000, date à laquelle il aurait été relâché. Il aurait été frappé et soumis à la technique dite du chiffon à plusieurs reprises jusqu'au 24 février. Des journaux roulés en boules auraient été déposés sur son ventre et son sexe avant d'être allumés.

28. **Ali Laacheb** aurait été arrêté le 3 avril 2000 à 14 heures et torturé pendant huit jours jusqu'à sa comparution devant le tribunal d'El Harrach le 11 avril 2000. Il aurait reçu des coups de poing, de pied et de manche de pioche sur tout le corps, y compris sur le visage. Il aurait été soumis à la technique dite du chiffon et aurait reçu des chocs électriques à quatre reprises. Il serait actuellement détenu à la prison d'El Harrach à Alger. Sa femme et son fils, **Salim Laacheb**, auraient été arrêtés en même temps et auraient été frappés en sa présence. Sa femme n'aurait été détenue que quelques jours; son fils serait aussi actuellement détenu à la prison d'El Harrach.

29. **Makrane Saadoune**, membre d'un réseau d'information sur les violations des droits de l'homme collaborant avec la Ligue algérienne des droits de l'homme, aurait été arrêté le 17 juin 2000. Il aurait été interrogé par les services de renseignements militaires et soumis à la technique dite du chiffon, aurait été frappé à l'aide d'un manche de pioche, et aurait été électrocuté, en particulier sur les parties génitales. Il serait toujours détenu à la prison de Tizi-Ouzou. Une dizaine d'autres personnes auraient été arrêtées en même temps que lui et auraient été soumises à des traitements similaires.

30. **Rédouane Dahmani** aurait été arrêté alors qu'il n'avait pas encore 16 ans, le 20 juin 2000 et aurait été torturé jusqu'à son incarcération à la prison de Tizi-Ouzou le 28 juin. Il aurait été arrêté par la police de Dellys et détenu au poste de commandement opérationnel de Souk El Fellah à Dellys. Il aurait été forcé à assister aux séances de tortures d'autres détenus avant d'être lui-même déshabillé et électrocuté, en particulier sur les parties génitales. Il aurait été frappé sur le visage et soumis à la technique dite du chiffon. Il aurait par ailleurs été brûlé avec des cigarettes et aurait fait l'objet d'attouchements sexuels accompagnés de menaces de viol. Une demande d'expertise médicale aurait été déposée par son avocat devant le juge d'instruction de Dellys siégeant près du Tribunal de Bordj Menaïel. Il serait toujours en détention. Dix-sept autres personnes auraient été arrêtées en même temps que lui et auraient été soumises à des traitements similaires.

Urgent appeals and replies received

31. Le 25 janvier 2000, le Rapporteur spécial a envoyé un appel urgent conjoint avec le Rapporteur spécial sur la violence contre les femmes, y compris ses causes et conséquences et le Rapporteur spécial chargé de la question de l'indépendance des juges et des avocats en faveur de **Me Nabira Mesbah**, avocate auprès de la cour d'Alger, qui avait en particulier défendu des victimes de torture auprès de la Cour spéciale d'Alger chargée des affaires de terrorisme entre 1992 et 1995. Elle aurait été inculpée d'escroquerie et arrêtée le 19 décembre 1999 et serait depuis incarcérée à la prison de Blida. Elle serait enceinte de huit mois et souffrirait de diabète. Elle ne bénéficierait pourtant d'aucun des soins médicaux appropriés à son état et son transfert dans un hôpital aurait été refusé.

32. Par une lettre datée du 8 février 2000, le gouvernement a indiqué que Me Nabira Mesbah avait été arrêtée en flagrant délit et avait reconnu qu'elle avait l'habitude de traiter des affaires avec certains juges moyennant corruption. Le 25 janvier 2000, elle avait été condamnée en audience publique à une peine de 18 mois d'emprisonnement ferme et à une amende. Un collectif d'avocats avait assuré sa défense. Concernant son état de santé, elle était actuellement sous surveillance médicale à l'hôpital civil de Blida. Le gouvernement a

finalement indiqué que les poursuites dont elle avait fait l'objet n'avaient aucun lien avec sa qualité d'avocate. Par une lettre datée du 18 février, le gouvernement a informé le Rapporteur spécial qu'elle avait finalement bénéficié d'une liberté provisoire lors de sa comparution devant la cour de Blida le 9 février 2000.

Follow-up to previously transmitted communications

33. Par une lettre datée du 3 mars 2000, le gouvernement a répondu aux trois cas individuels transmis par le Rapporteur spécial en novembre 1999 (E/CN.4/2000/9, par. 15, 16 et 18).

34. Concernant Ahmed Jalal, le gouvernement a indiqué que cette personne n'a jamais été incarcérée dans un quelconque établissement pénitentiaire.

35. Concernant Mohamed Ouarti, le gouvernement a indiqué manquer d'information pour localiser cette personne.

36. Concernant Mohamed Boukhelaf, Le gouvernement a indiqué qu'il avait reconnu devant le juge d'instruction près du tribunal de Hussein Day, après avoir refusé de se faire assister par un avocat, appartenir à un groupe terroriste et avoir participé à des attentats à l'explosif, le 14 septembre 1998. Il n'a jamais fait mention de mauvais traitements, même lorsqu'il a comparu plus tard assisté d'un avocat. Le 21 octobre 1998, son avocat a néanmoins déposé une requête auprès du juge d'instruction pour mauvais traitements. Le 21 novembre, le parquet a refusé que soit pratiquée une expertise au motif que la demande n'avait pas été formulée en son temps lors de la première comparution.

Observations

37. The Special Rapporteur regrets that, since his request in 1997 for an invitation to visit Algeria, no such invitation has been forthcoming. Under the circumstances, he feels compelled to indicate his assessment of the situation on the basis of the information currently available to him.

38. He is aware that the armed, so-called Islamist, opposition groups have engaged in acts of appalling barbarity. Nevertheless, he is bound to insist that such behaviour never justifies resort to torture or to cruel, inhuman or degrading treatment or punishment. He is persuaded by information provided over the years that such treatment is frequently inflicted on persons suspected of involvement in those groups. It is also evident that the treatment is facilitated by the exorbitant periods of incommunicado detention in the hands of law enforcement or security authorities, which periods appear to be able to last for months on end. Indeed, such prolonged detention is itself, as the Commission has consistently affirmed, a form of prohibited cruel, inhuman or degrading treatment. Furthermore, in the light of the oppressive nature of the detention, it is unreasonable to expect any complaint to the court on first emergence from detention.

Angola

39. By letter dated 5 October 2000, the Special Rapporteur advised the Government that he had received information on the following individual cases.

40. **Thaddeus Mubili**, a Namibian citizen, was allegedly killed by members of the Angolan Armed Forces (Forças Armadas de Angola) (FAA) in Mushangara, West Caprivi region, on 22 January 2000. He was allegedly severely beaten before being shot dead.

41. **Josefa Lamberga**, a correspondent for Voice of America, was slapped in the face twice and had her ear pulled by a soldier after she sought access to the military recruitment centre at the premises of the Transmissions Battalion in late April 1999. The assault appeared to be connected to an interview in which interviewees alleged that white people and people of mixed race were exempt from the recruitment process. She presented a complaint to the military court.

42. Father **Leonardo Gaspar Chivanje** was reportedly handcuffed and beaten on the head by a police officer in Humpata, Huila, after a minor traffic accident. The officer was subsequently reported to have been suspended from duty, but was not known to have been brought to justice.

43. **Cristóvão Lwemba**, a Rádio Ecclesia correspondent in Cabinda, was beaten by two men in police uniform on 18 May 2000. He was on his way home after covering the celebrations for the Pope's 80th birthday at the Cabinda Cathedral. He reported the incident to the police, who said that they would investigate.

44. **Gilberto Neto**, a journalist, was reportedly detained for about eight hours on 3 September 1999 in connection with an article indicating that the police had threatened to close Rádio Ecclesia and that the church should not involve itself in politics. On one occasion the police reportedly pushed against his mouth the wooden panel used to identify the person being photographed. This cut his lip.

45. **Machadoe Irmão**, who had worked for Actual until April 1999, was reportedly beaten on 17 May 1999 by uniformed police officers in a patrol. It is believed that when the police found out that he was a journalist they accused him of being one of those who "support the enemy" and "say bad things" about the Government.

46. On 2 July 1999, two television crews were arrested after they had filmed police exchanging shots with suspected armed robbers in Luanda. The film reportedly showed the apparently unlawful killing of one of the alleged robbers. A witness said that the arrests were carried out by a group of plain-clothes police who seized the cameras of the crews from Televisão Popular de Angola (TPA) and a Portuguese television station, Rádio Televisão Portuguesa. Members of the TPA crew were said to have been held at a street corner and made to kneel with their hands in the air. They were reportedly insulted and threatened and some were kicked and hit with machine-gun butts. Subsequently, the chief of the police operational command reportedly apologized to the journalists and returned the cameras, having removed the film.

47. **José Manuel Alberto** of Rádio Morena Comercial in Benguela was reported to have been assaulted by a provincial government official of the Ministry of Public Works on 21 July 1999, after he had broadcast a report which commented on the delay in reopening six primary schools in Benguela and Lobito cities which had been closed for repair four months earlier. The journalist sustained a bruise on the right thigh. He notified the police of the assault. To date, no action has been taken against his aggressor.

Argentina

Urgent appeals and replies received

48. El 26 de julio de 2000, el Relator Especial envió un llamamiento urgente sobre **Vanesa Piedrabuena,** quien sería una destacada activista de la Asociación Travestis Unidas de Córdoba (ATUC). El hecho tendría conexión con el caso de **Vanesa Lorena Ledesma** (nombre legal Miguel Angel Ledesma) activista y miembro de ATUC quien habría sido torturada y muerta durante su detención en febrero de 2000. El 13 de julio de 2000 oficiales de la policía con una orden de allanamiento, pero aparentemente sin justificación, habrían requisado la casa de Vanesa Piedrabuena. Durante el registro habrían centrado su atención y habrían hecho comentarios negativos sobre las fotos que mostraban el cuerpo torturado de Vanesa Lorena Ledesma quien habría sido arrestada violentamente por la policía en el bar Mikonos de la ciudad de Córdoba el 11 de febrero de 2000; no se habría tenido más información sobre ella hasta el 16 de febrero de 2000 cuando un informe policial atribuiría la muerte de la nombrada a un paro cardiaco. La autopsia practicada a Vanesa Lorena Ledesma habría mostrado fuertes evidencias de castigos y torturas.

49. Por cartas con fecha 22 y 28 de agosto de 2000, el Gobierno informó de que respecto a este caso se han abierto tres causas. La primera se inicia con la detención de Ledesma, imputándole el delito de daño a la propiedad y lesiones leves por el incidente ocurrido en un bar de la ciudad de Córdoba, proceso bajo la jurisdicción de la Fiscalía, distrito 5, turno 2, habiéndose dictado el sobreseimiento por muerte del imputado. La segunda causa se inicia con la muerte del acusado ante la Fiscalía, distrito 5, turno 3, en la que se intenta esclarecer la causa de la muerte de Ledesma, Miguel. Una tercera causa presentada ante la Fiscalía, distrito 5, turno 2, fue iniciada a raíz de la denuncia de cuatro agrupaciones de derechos humanos, entre ellas la Asociación Travestis Unidos de Córdoba a través de su presidenta Vanesa Piedrabuena para establecer si el hecho de la muerte guarda relación con el maltrato policial. Como consecuencia de la misma se ha abierto una instrucción contra los presuntos responsables. A la fecha no se conocen los resultados de esta última instrucción. La autopsia practicada sobre Vanesa Ledesma señala como causa de la muerte una malformación congénita del aparato cardiovascular, no se comprobaron mecanismos de muerte traumáticos, tónicos ni asfícticos.

Observations

50. The Special Rapporteur appreciates the response of the Government. He considers it appropriate to draw to the attention of the Commission the concerns expressed by the Human Rights Committee with regard to its October 2000 review of the third periodic report of Argentina under the International Covenant on Civil and Political Rights. In particular, the

Committee was concerned at allegations indicating that torture and excessive use of force by police officials were "a widespread problem and that government mechanisms established to address it are inadequate" (CCPR/CO/70/ARG of 3 November 2000, para. 12). The Committee was also deeply concerned that prison conditions fail to meet the requirements of the prohibition of torture and ill-treatment and the right to be treated with humanity and respect for human dignity, and considered "the severe overcrowding and the poor quality of basic necessities and services, including food, clothing and medical care, to be incompatible with the right to be treated with humanity and with respect for the inherent dignity of the human person to which all persons are entitled. It has been established, in addition, that there are abuses of authority by prison officials, such as torture and ill-treatment, and corruption. While noting the plans under way to construct new prison facilities, the Committee recommends that immediate attention be paid to the need to provide adequately for the basic necessities of all persons deprived of their liberty." (ibid., para. 11). Also, while drawing attention to positive measures taken recently to overcome past injustices, including the repeal in 1998 of the Law on Due Obedience and the Punto Final Law, the Committee was concerned that "many persons whose actions were covered by these laws continue to serve in the military or in public office, with some having enjoyed promotions in the ensuing years. It therefore reiterates its concern at the atmosphere of impunity for those responsible for gross human rights violations under military rule. Gross violations of civil and political rights during military rule should be prosecutable for as long as necessary, with applicability as far back in time as necessary, to bring to justice their perpetrators. The Committee recommends that rigorous efforts continue to be made in this area and that measures be taken to ensure that persons involved in gross human rights violations are removed from military or public service." (ibid., para. 9).

Armenia

51. By letter dated 5 October 2000, the Special Rapporteur advised the Government that he had received information in relation to the armed attack on the Parliament on 27 October 1999. A number of men are said to have been arrested, held incommunicado and ill-treated while in detention. In particular, the Special Rapporteur has received information on the following individual cases.

52. **Nairi Badalian**, a former journalist, was reportedly arrested in November 1999 and released on 3 June 2000. All charges against him are believed to have been dropped. During his detention in the Nurabashen investigation-isolation prison in Yerevan, he was allegedly made to stand outside in freezing temperatures in the winter without warm clothing, doused with water, chained to a metal chair while some 10 people beat him, knocking out some of his teeth, and deprived of sleep.

53. **Musheg Movsisian** was reportedly charged with complicity in the 27 October 1999 armed attack. He was reportedly detained on 6 November 1999 and was initially held at the investigation prison of the Ministry for National Security in Yerevan before being transferred to Nurabashen prison in Yerevan. It is alleged that, before his transfer to Nurabashen, he was subjected to torture consisting of severe beatings and of being hit on the soles of his feet with a baton. On 23 December 1999, his lawyer reportedly requested a forensic medical examination, which was granted.

54. **Artiun Artiunian**, the Deputy Executive Director of Armenian Television, was reportedly detained on 5 January 2000 in connection with the same incident and was similarly tortured. It is reported that a complaint was lodged by his lawyer on 8 March 2000 against those in charge of the investigation. This complaint appears to have been rejected on 15 March 2000 on grounds of lack of evidence.

55. **Narian Unanian** and **Alesksan Artutiunian** were also alleged to have been detained. It is similarly reported that they were subjected to beatings, threats and psychological pressure from investigators.

56. The Special Rapporteur has also received information on the following other individual cases.

57. **Stepan Gevorgian** and **Oleg Arishin**, both aged around 20, reportedly died on 15 April and 27 April 1999 respectively. They are alleged to have deserted their military unit on 15 January 1998 but were arrested in Yerevan the following day after a failed car theft. They are then reported to have spent the following 15 months in Sovetashen Investigation Isolation Prison in Yerevan, before being transferred to corrective labour colony No. 14 at Artik. The authorities are said to have stated that Oleg Arishin died as a result of suicide by a drug overdose. Stepan Gevorgian, however, is said to have died after a severe beating, although officials are reported to have been unable to apprehend the culprits. The results of the post-mortem are alleged to indicate that he died as a result of fractures to the skull, inflicted with a blunt instrument, which resulted in a cranial haemorrhage. The authorities reportedly undertook an investigation which was subsequently closed as they were unable to ascertain how he had sustained his fatal injuries. The case was allegedly closed on 28 August 1999.

58. **Lieutenant Colonel Artush Ghazarian**, the former military commissar of Tashir district in the northern Lori region, was reportedly taken into custody on 17 September 1999 to the Investigation Isolation Prison No. 3 in the northern city of Vanadzor, having reportedly been charged three days earlier with failure to execute an order and abuse of authority. He was beaten so severely by prison officials that he died in custody there on 29 September 1999. The following injuries are said to have been recorded: bleeding in the brain and "softness" of the brain (encephalomalacia), a broken nose, six broken ribs, a ruptured lung and other injuries. On 30 September, the Procurator General reportedly ordered that the case be transferred to the General Procuracy, and an investigatory group was established. It is reported that the inquiry uncovered a number of other cases in which prisoners had been subjected to ill-treatment by one of the officials who assaulted Artush Ghazarian. This official is reported to be in custody, charged with intentional infliction of grave bodily injury, exceeding his authority or official powers and extortion. However, it is alleged that no criminal proceedings have been brought against any of the other officials present at the fatal beating, including against two prison doctors present during the beating.

59. **Eduard Vardanian** was reportedly called to the police station in Abovian on 25 February 1999 to give evidence as a suspect in a murder inquiry. The following day, he was taken into custody. On 1 March his mother was advised that her son had been cleared of any suspicion in regard to the murder inquiry but that he was being held in administrative detention for five days for failing to comply with two previous summonses to give evidence.

It is reported that, on 3 March, when Eduard Vardianian's mother telephoned the Abovian police station, she was told that he had killed a man, confessed everything, thrown himself out of the window and was now dead. It is alleged that there were traces of cigarette burns on his hands. The death is understood to have been recorded as a suicide by the Chief Medical Examiner of Kotaik region. The office of the Procurator General reportedly investigated the case and concluded that all injuries sustained by Eduard Vardanian were the result of his fall.

60. The Special Rapporteur has received further information (see E/CN.4/1999/61, paras. 51 and 52) on a number of defendants in the so called "Dro" and "Vahan Hovanesian" trials involving members of the Dashnak Party, then in opposition, which took place in 1996 and 1997, who have reportedly made allegations that they were subjected to torture and ill-treatment whilst detained. When **Abet Petrosian** was tried on 6 February 1997, it is alleged that he testified he had been beaten by various officials. Abet Petrosian's co-defendants, **Seyran Massoyan, Mkrtich Meghavorian** and two others are alleged to have made similar claims. It is reported that the court did not take these allegations into account or order any investigation, on the grounds that the defendants had not lodged complaints about their treatment while they were held in pre-trial detention.

61. Finally, the Special Rapporteur is concerned at the information he has received concerning three soldiers accused and convicted in the case of the alleged suicide of **Artak Kachikovich Petrossian** who have been released under an amnesty. Artak Petrossian was drafted into the army in June 1998 and was sent to unit No. 43577 in the Armavir region. On 23 July 1998 he was subjected to beatings and sexual abuse by a junior officer. As a result of the attack, he left the unit on the night of 23 July and tried to kill himself. He was found and medically treated. On 11 August 1998, he was sent to complete his military service in unit No. 32503, based at the Erebuni airport. On 17 August 1998, he was reportedly taken to the local army command post. Two hours later, he is said to have fallen from the fourth floor balcony of the airport building and died on 24 August without having regained consciousness. The cause of his death is disputed. He was allegedly suffering from the effects of a beating, including a broken arm and a fractured skull. On 27 September 1999, junior sergeant David Galechian was convicted on the charges of incitement to suicide, attempted sodomy and abuse of authority and sentenced to eight years' imprisonment. Grigor Tigranian and Vardan Ovannisian were convicted in connection with the same incident, on charges of abuse of authority, and Norayr Meliksetian on charges of complicity in the offence of abuse of authority. They were each reportedly sentenced to three years' imprisonment. Reports suggest that the three of them were released without serving their sentences.

62. By letter dated 23 October 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1999 regarding which no reply had been received.

Observations

63. The Special Rapporteur considers it appropriate to draw the attention of the Commission to the relevant findings of the Human Rights Committee in its consideration of the initial report of Armenia in November 1998 under the International Covenant on Civil and Political Rights, expressing the Committee's concerns about "allegations of torture and ill-treatment by law enforcement officials". The Committee recommended "the establishment of a special

independent body to investigate complaints of torture and ill-treatment by law enforcement personnel". (CCPR/C/79/Add.100 of 19 November 1998, para. 12.) The Committee was also concerned about "the poor conditions prevailing in prisons", reminded the State "that all persons deprived of their liberty must be treated with humanity and with respect for the inherent dignity of the human person" and recommended that it observe the Standard Minimum Rules for the Treatment of Prisoners (ibid., para. 13).

Australia

64. By letter dated 5 October 2000, the Special Rapporteur advised the Government that he had received information on the following individual case.

65. **Neil James Anderson,** also known as Neil Holt, aged 18, reportedly hanged himself in his cell at Canning Vale Prison, Western Australia on 25 January 1998. He was on remand for driving offences. During his detention, he was allegedly placed in restraints on four occasions in the month before his death, twice at the CW Campbell Remand Centre and twice at Canning Vale Prison. On 12 January 1998 he reportedly spat at a prison officer and was punished by being sprayed with pepper spray and physically restrained in hobbles and leg irons for over 25 hours. Although Ministry of Justice regulations provide that prisoners should be restrained for only as long as it takes to control their behaviour, Neil Anderson's behaviour was reportedly not monitored, nor was the decision to restrain him regularly reviewed.

Urgent appeals and replies received

66. On 19 July 2000, the Special Rapporteur sent an urgent appeal on behalf of **Herman Chikonga**, originating from the Kivu region in the Democratic Republic of the Congo, who was reportedly facing imminent and forcible repatriation to the Democratic Republic of the Congo, where he may be at risk of torture and other forms of ill-treatment. He is said to have arrived in Australia with his wife and son in 1991 and to have been granted a refugee visa by the Government of Australia. In 1993, the visas granted to his family were allegedly cancelled by the Immigration Department as a result of Herman Chikonga's claim that they were not genuine refugees. It is believed that he made this claim to prevent his family from breaking up. In September 1994, the Department of Immigration is said to have reinstated his residence by granting him a visa, which was reportedly again cancelled on 10 October 1995 on the same grounds as the first visa. On 12 May 2000, the Minister for Immigration and Multicultural Affairs is said to have confirmed the decision of the Immigration Review Tribunal to cancel Herman Chikonga's visa. His wife and son have reportedly been granted permanent residence in Australia. He reportedly recently lost two members of his family in the Democratic Republic of the Congo and the whereabouts of his parents are allegedly unknown.

67. By letter dated 18 August 2000, the Government indicated that the case was under consideration by the Department of Immigration and Multicultural Affairs.

Observations

68. The Special Rapporteur considers it appropriate to draw to the Comission's attention the relevant findings of the Committee against Torture in its consideration of the second periodic

report of Australia in November 2000 under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in which the Committee expressed its concerns at the "[u]se of instruments of physical restraint that may cause unnecessary pain and humiliation by prison authorities ..., [a]llegations of excessive use of force or degrading treatment by police forces or prison guards ..., [and a]llegations of intimidation and adverse consequences faced by inmates who complain about their treatment in prisons." (CAT/C/XXV/Concl.3).

Austria

69. By letter dated 5 October 2000, the Special Rapporteur advised the Government that he had received information on the following individual cases, to which the Government replied by letter dated 8 December 2000.

70. **Marcus Omofuma** allegedly suffocated on an aeroplane in the presence of three police officers at the Vienna airport during his forced deportation to Nigeria on 1 May 1999. He was alleged to have resisted the attempt to deport him and as a result police officers bound his arms and legs and gagged him with adhesive tape. He was reportedly carried onto the plane. It is understood that he was gagged and strapped into his seat. When he protested the police officers reportedly applied more adhesive tape to his chin and used a plastic belt to tie him tighter into the seat. He allegedly continued to struggle in order to get air, while the police officers are said to have taken no action. When the tape was removed from his mouth, he was reportedly unconscious. By the time he was attended by a doctor, he was allegedly already dead.

71. The Government responded that following his death during deportation, criminal proceedings against the police officers involved were immediately initiated and they were suspended from work. Disciplinary proceedings were initiated but suspended pending the outcome of the criminal proceedings. The public prosecutor is currently in the process of clarifying two diverging medical reports, and issued a request to the expert of the Korneuburg Regional Court to comment on the medical report obtained from the Bulgarian authorities. The prosecution has further requested an examination of tissue from the corpse of the deceased. Responses to both requests are pending. A new ministerial directive on deportations by air was issued, which specifies, inter alia, that only specially trained officers may accompany deportees, and strengthens the procedures for medical examination before the flight. A Human Rights Advisory Board has been established at the Ministry of the Interior, including non-governmental organizations. The Board members are entitled to inspect police offices with detention facilities without prior notice.

72. **Mohammed Ali Visila** was reportedly assaulted by police officers at Schottenring underground station in Vienna on 3 March 1999. It is alleged that he was pushed into the control room of the station, where two police officers allegedly punched, kicked and beat him with rubber truncheons and pepper-sprayed him while he lay on the floor. They also reportedly shouted racist abuse at him during the attack. In April 1999, reports suggest that Mohammed Ali Visilia was brought to trial on charges of resisting arrest, resulting in a sentence of nine months' imprisonment, eight of which were suspended. No action has reportedly been taken against the police officers. Attempts had allegedly been made by police officials to discredit the eyewitnesses, and the leader of the police trade union reportedly threatened the witnesses with legal proceedings in respect to comments made to the Austrian press.

73. The Government responded that criminal proceedings had been initiated against two police officers for causing bodily harm, at the request of a public prosecutor in Vienna. Following a criminal investigation by the Regional Criminal Court in Vienna, the public prosecutor concluded that the evidence was not sufficient for the continuation of proceedings, which were discontinued on 4 May. The medical expert report did not corroborate witness statements, which also contained contradictions. On 16 April 1999, Mohammed Ali Visilia was sentenced to nine months' imprisonment, eight of which were suspended, on narcotics charges, attempting to resist arrest and committing bodily harm against police officers during the exercise of their duty.

74. **Raymond Ayodeji**, a 41-year old Nigerian national, was allegedly beaten by police on 3 July 1999 in St. Pölten town centre. A police officer reportedly asked him for his identity card, to which he is said to have replied that it was in his car. The resulting discussion reportedly became heated and Raymond Ayodeji allegedly asked for the police officer's service number. The police officer reportedly called for reinforcements and shortly afterwards three additional police officers arrived, who proceeded to ill-treat Raymond Ayodeji. When Raymond Ayodeji's wife returned with their children she is alleged to have seen her husband being kicked while he lay on the ground. The police reportedly used pepper spray when he struggled, some of which went into the eyes of his small son. It is reported that a police officer was bitten on the hand when he allegedly closed Raymond Ayodeji's nose and sprayed pepper spray into his mouth. The police are said to have used racist language. Following his arrest and detention, Raymond Ayodeji was charged with resisting arrest, committing bodily harm and damaging property, and was reportedly given a conditional eight-month prison sentence in November 1999.

75. The Government replied that the Regional Court of St. Pölten was currently carrying out preliminary investigations against the police officers involved, who had been charged with committing bodily harm. The court is awaiting a medical expert opinion, inter alia.

76. **Maryam Movahedi-Borojerdi**, an Austrian citizen, and Robert Philipe, her Rwandan husband, were reportedly arrested at their home in Vienna on 8 March 1998. Four police officers, some or all of whom were armed, allegedly burst into her flat in Vienna while she and her husband were still in bed and told them that they were looking for drugs and weapons. It is believed that more than 15 officers carried out a search of the flat, during the course of which one officer struck Maryam Movahedi-Borojerdi in the face and another reportedly banged her husband's head against a wall. They were reportedly taken to the police detention centre in Rossauerlände, where Robert Philipe was allegedly beaten during questioning. During several days in detention Maryam Movahedi-Borojerdi was menstruating heavily but was allegedly refused any sanitary protection, apart from a 30-centimetre long piece of paper. Following her release, Maryam Movahedi-Borojerdi made a formal complaint to the Ombudsman's Office (Volksanwaltschaft) about the ill-treatment to which she and her husband had allegedly been subjected. It is understood that the authorities have been extremely slow in dealing with this complaint.

77. The Government replied that criminal proceedings had been initiated against six of the police officers involved, on charges of ill-treatment. The public prosecutor carried out investigations and concluded that the allegations were unfounded, leading to discontinuation of

criminal proceedings. Maryam Movahedi-Borojerdi was held in detention in a cell for female detainees on 8 and 9 March 1998. The cell contained 7 to 10 sanitary towels. Each apprehended person is offered the opportunity to contact a lawyer or another person immediately upon arrest. The police protocol in this case does not mention whether contact with a lawyer had been requested. Robert Phillipe was sentenced to 12 months' imprisonment for violating the law on narcotic substances. Criminal proceedings against Maryam Movahedi-Borojerdi were discontinued.

78. **Goekhan Canpolat**, a 13-year-old boy of Turkish origin, was reportedly ill-treated by a police officer in Neunkirchen on New Year's Eve 1999, after reportedly setting off fireworks from some dustbins with his cousin. Two police officers reportedly approached him and allegedly called him a "shit foreigner" ("scheiß Ausländer"). A police officer reportedly grabbed him by the collar of his jacket, then by his hair, and punched him on the back of his head. He then reportedly pulled the boy by his hair and his jacket towards the entrance of the police station. In the police station the boys were instructed to empty their pockets. The same police officer reportedly swore at Geokhan Canpolat, threw the contents of his pockets onto the floor and insisted that he had a long criminal record in Germany, where he and his family lives. A medical examination was reportedly conducted on Goekhan Canpolat on 5 January 2000. The report is said to state that Goekhan Canpolat was suffering from bruises to his head and right thigh and scratches to his left temple, as well as sleeplessness and anxiety.

79. The Government replied that the public prosecutor in Vienna Neustadt had requested that Gökhan Canpolat and his father give testimony to the competent judicial authorities. An interrogation had not yet taken place.

80. **A group of anti-racist protesters from Germany** were allegedly temporarily detained by police officers on 19 February 2000 near the Westbahnhof railway station in Vienna. Around six police officers who were riding in a police vehicle reportedly got out of the vehicle, grabbed hold of the four demonstrators and pushed them against the wall of an adjacent building and kicked their legs apart. It is alleged that the police officers then forced them into the concealed passageway of a house where they were forced to lean against a wall for some 20 minutes, while the police officers searched them and their vehicle. They were allegedly kicked and punched, their fingers were bent back and their hair pulled while they were leaning against the wall. The police officers allegedly confiscated their shoes and informed them that if they dared to take part in the demonstration planned for later that day they would be automatically arrested and would suffer the consequences.

81. The Government responded that the four demonstrators referred to by the Special Rapporteur were presumably Urs Titus Stahl, Matthias Möller, Florian Warweg and Jörg Pfaff. The regional criminal court of Vienna carried out preliminary investigations against seven police officers at the request of the public prosecutor in Vienna. The public prosecutor concluded that the evidence was insufficient and therefore the proceedings were discontinued. Items leading the police to believe that the four men possibly intended to carry out acts of violence were confiscated. Temporary detention was carried out with determination and due consideration for the need for proportionality of police intervention.

Azerbaijan

Follow-up to previously transmitted communications

82. By letters dated 18 February 2000 and 20 November 2000, the Government responded to all individual cases transmitted by the Special Rapporteur in November 1999 (E/CN.4/2000/9, paras. 43-62) and to cases transmitted by the Special Rapporteur in conjunction with the Special Rapporteur on the right to freedom of opinion and expression in November 1999 (ibid., paras. 63-70).

83. Concerning **Elchin Bekhudov,** the Government stated that he had been arrested on 21 October 1995 on suspicion of committing a crime, and his family had been notified. He was informed of his right to legal representation, which he declined in writing. He was subsequently defended by a lawyer of a Legal Advice Bureau in Baku. On 31 October 1995, he was charged under article 186 of the Penal Code. The Government reported that his guilt had been proven by statements he had made during the preliminary investigation, the testimony of other suspects in the case, as well as forensic, ballistics, physical and chemical examinations. On 4 March 1996, he was given a suspended sentence of two years' imprisonment by the Supreme Court of the Azerbaijani Republic. The Procurator's Office has on several occasions verified the legality of the sentence on the basis of Elchin Bekhudov's statements. During his visit to Azerbaijan, the Special Rapporteur met Elchin Bekhudov who provided him with further information (E/CN.4/2001/66/Add.1, para. 36).

84. Concerning **Abulfat Kerimov**, the Government replied that on 16 January 1997, he had been found guilty of creating armed groups and carrying firearms without proper authorization and had been sentenced to eight years' imprisonment by the Military Division of the Republic. The case records failed to confirm that he had been held in custody for 11 months and a forensic examination revealed no trace of bodily injuries.

85. Concerning **Eldar Agaev**, the Government indicated that, on 23 September 1995, the Procurator's Office of the Nasimin District in Baku had initiated criminal proceedings against him in connection with a murder. On 26 September 1995, he was arrested and charged. He was subsequently allowed to be represented by a lawyer of his family's choice. The allegation that he had been beaten could not be confirmed in the course of the investigation. On 28 March 1997, he was sentenced to seven years' imprisonment by the Supreme Court. On 17 April 1998, the case was reopened for further investigation by the Presidium of the Supreme Court. In the course of the supplementary investigation, an examination revealed that he had a trophic sore on his left foot, which was subsequently operated on. The criminal charges against him were referred to the Nasimin District Court, which sentenced him to seven years' imprisonment on 24 November 1998. Allegations that Eldar Agaev had been subjected to beatings were also investigated, but not confirmed in the course of the trial. On 28 January 1999, the Baku Municipal Court quashed his sentence and the case was reopened for further investigation. The Baku Municipal Court and the Supreme Court held that the evidence produced during the trial, namely the accounts of two eyewitnesses, was inadequate for passing sentence and as a result, criminal proceedings against him were dropped on 10 April 1999.

86. Concerning **Vugar Verdiev**, the Government indicated that he was arrested on 30 April 1996 in Baku and taken to the town of Gyandzha where he was questioned as a suspect in the presence of his lawyer. On 2 May 1996, he was detained and charged and, on 18 December 1997, convicted of aggravated murder, robbery and possessing firearms without proper authorization by the Baku Municipal Court. He was sentenced to death, a sentence which was subsequently commuted to life imprisonment. According to the Government, during the preliminary investigation, he had admitted his guilt. His sentence was subsequently upheld by the Supreme Court of the Azerbaijani Republic. An investigation revealed that Vugar Verdiev's parents had not been detained in a police station.

87. Concerning **Bakhram Sadygov**, the Government stated that an investigation by the Procurator's Office of the town of Sumgait revealed that, on 20 November 1998, the Criminal Investigation Section of the Sumgait Municipal Police Department instituted criminal proceedings against him for robbery. On 7 January 1999, Bakhram Sadygov was arrested and placed in the temporary custodial section of the Sumgait Municipal Police Department. On 8 January 1999, he was charged with robbery and placed in custody. In the course of questioning, he admitted that he was guilty. He died on 17 January 1999 in the temporary custodial facility, which created considerable difficulties for the police in connection with the preliminary investigation. The Procurator's Office carried out an investigation into the cause of his death. A post-mortem examination in the presence of the senior investigator of the Procurator's Office, carried out on 18 January 1999, showed that the cause of death was acute cardio-pulmonary deficiency, pneumonia and a heart attack. No signs of beatings had been found. The Government stated that Bakhram Sadygov had twice requested medical care. On 13 January 1999, he had complained of severe headaches and a physician had found that he was suffering from high blood pressure and had given him the necessary care. On 17 January 1999, he once again requested a doctor. The physician arrived immediately, however Bakhram Sadygov was already dead. On 5 March 1999, the Sumgait Prosecutor's Office decided to refrain from instituting criminal proceedings as his death was due to natural causes. It was also established that he had made no complaints or appeals to the authorities.

88. Concerning **Aleksandr Usenko**, the Procurator's Office in Baku found that he had tried to bribe the Chief of Administration of the Ministry of Justice in order to have the Jehovah's Witnesses religious group illegally registered. The Procurator's Office launched a preliminary investigation and charged him. Subsequent to his complaint that the senior investigator of the Baku Procurator's Office had used unlawful methods in conducting the investigation, the case was assigned to another investigator. The inquiry and evidence presented by impartial persons revealed that allegations of beatings and insults were groundless. This was further confirmed by a lawyer who had been brought in on 13 November 1997. The Sabail District People's Court of Baku found him guilty and imposed a suspended sentence of three years' imprisonment.

89. Concerning **Vusal Rasulov**, the Government stated that an investigation led to the conclusion that, on 6 November 1997, the Mingechaur Police Department brought criminal proceedings against Sakhiba Rasulova and her husband Yashar Rasulov for fraudulently obtaining money from two persons. On 6 March 1998, the case was transferred to the Procurator's Office of Shekin district for investigation. On 18 December 1998, Yashar Rasulov was charged with swindling, incitement and unauthorized representation of himself as an official, found guilty and sentenced by the Geranboi District Court of Azerbaijan.

Sakhiba Rasulova was made to sign an undertaking not to leave the area; however after proceedings had been instituted against her on 18 March 1998, she disappeared. An investigation revealed that allegations of the abduction of the 12-year-old Vusal Rasulov and his sister, of their illegal detention in the village of Khanabad, Evlakh district, his beating and bodily injury as well as the complaint that he had been refused medical treatment were unfounded on the basis of forensic examinations.

90. Concerning **Namik Aliev,** the Government replied that, on 19 March 1998, the Baku Procurator's Office instituted criminal proceedings for exceeding authority or powers on the basis of statements made by his lawyer that he had been insulted and beaten by the Chief of the twenty-ninth division of the police department of Yasamal district of Baku and that he had been illegally detained in the temporary custodial section. An investigation was carried out by the Procurator's Office of the Sabail district of Baku. A subsequent medical examination revealed slight bodily injuries, but could not determine whether they had occurred on the day of the incident or before. His lawyer testified that he had not been beaten at the police station, but had been injured as a result of carelessness. On 19 June 1998, the investigation was abandoned for lack of evidence.

91. Concerning **Elshan Ragimov**, an investigation concluded that on 27 April 1998, he was charged with various weapons offences, with participating in the armed attack of 2 October 1994 against the Procurator's Office of the Azerbaijani Republic and the armed attack of 15 March 1995 against government soldiers, thereby inflicting bodily injury and causing material damage to State property, and participating in unauthorized armed formations. He was tried, found guilty and sentenced to 10 years' imprisonment by the Supreme Court. The investigation did not reveal any illegal methods employed during his questioning. Furthermore, no written or oral complaints of unlawful methods had been made by him.

92. Concerning **Fagan Magerramov**, the Procurator's Office of the Geraboi district instituted criminal proceedings for abuse of official position. Witnesses were questioned and the allegations that he had been beaten by a police official were not substantiated. On 21 November 1998, proceedings were abandoned.

93. Concerning **Shokhrat** and **Ramin Ismailov**, the Government stated that criminal proceedings were instituted for intentional slight bodily injury in response to allegations of ill-treatment by police officers against Ramin Ismailov on 8 November 1998. The results of a forensic examination revealed that his body showed no signs of severe injuries. Testimonies of witnesses indicated that he and other members of the Party for the Democratic Independence of Azerbaijan were not beaten by police officers. The proceedings were therefore dropped since the allegation of beating could not be confirmed. Ramin Ismailov was informed in writing of the results of the investigation.

94. Concerning **Rafik Amirov**, the Government stated that criminal proceedings had been instituted against him on a charge of robbery with violence and intentional murder on 19 May 1997. He was arrested on 20 May 1997 as a suspect and questioned in the presence of his lawyer. He was subsequently charged with intentional murder with aggravating circumstances and robbery. The criminal investigation was subsequently assigned to the

Procurator's Office. He confessed to the murder. On 24 August 1998, the Baku Municipal Court found him guilty and sentenced him to 14 years' imprisonment. An examination of the facts failed to establish that he had been beaten up.

95. Concerning **Vakhid Gurbanov**, **Vagif Guliev** and **Elchin Mamedov**, the Government replied that on 12 September 1998, a group of 250 to 300 persons, including the above-named, attempted to hold an authorized meeting in Azadlig Square in Baku. Participants in the procession to the square disrupted the peace and quiet of the town's inhabitants. They were thereby deliberately provoking police officers, obliging them to use force against them. The participants threw stones, bottles, pieces of metal and sticks at police officers, as a result of which 78 were injured. The lawbreakers were arrested, some were warned and immediately released, others were fined by the court or held in custody for 2 to 15 days. The majority of persons charged were questioned by the Procurator General and his staff. Steps were taken to determine the motives of their crime and whether unlawful force had been used against them during or after the arrest. Those charged were informed of their right to appeal to the Procurator General. They were subsequently summoned to the Procurator's Office and on being questioned stated that, as the injuries they had suffered during the confrontation between participants and police officers were insignificant, they had not appealed to the investigating authorities. On 30 December 1998, Vakhid Gurbanov was given a suspended sentence of two years. On 18 March 1999, a Baku District Court sentenced Elchin Mamedov to two years' imprisonment to be served in two years' time and Vagif Guliev to a suspended sentence of 18 months' imprisonment.

96. Concerning **Dzhamal Gumbatov**, the Government stated that allegations of torture were checked on several occasions but not confirmed.

97. Concerning **Kerim Kerimov**, the Government replied that an investigation by the Gyandzh Procurator's Office established that members of the Gyandzh section of the National Front Party of Azerbaijan had tried, on the pretext of holding a funeral ceremony, to hold a meeting which was not authorized by the municipal authorities. Kerim Kerimov and others were questioned at the police station in Gyandzh. After a warning not to engage in unlawful activities of that nature in future, they were released. The allegations that he was beaten by members of the Gyandzh police department on 24 May 1997 proved to be unfounded.

98. The Government stated that any human rights violation brought to the attention of the authorities becomes the subject of careful inquiries and that in each case steps are taken to restore the citizen's rights and to ensure that justice is done. The protection of human rights and fundamental freedoms is proclaimed in the Constitution as the principal objective of the State. A Police Law prohibiting the use of threats, torture and other physical and psychological pressure (article 5) and requiring police officers to respect the rights and freedoms of individuals in the course of their activities entered into force in November 1999 and was being widely distributed amongst the population and the police.

99. Concerning the journalists **Smira Mamigdze, Ilhame Mamigdze, Zamina Aliguze** and others, the Government responded that an investigation by the Procurator's Office of the Republic of Azerbaijan had found that an unauthorized picket had been held in front of the

Supreme Court building on 16 November 1998, during which law enforcement personnel had suppressed unlawful actions by the participants. The Baku City Procurator's Office had repeatedly invited the above-named to submit statements describing the circumstances of the alleged acts of violence, medical reports and an indication of those responsible. They declined to submit such statements or to appear in person on the basis that they had not sustained any injuries and had no complaints.

100. Concerning the journalists **Aydin Bagirov** and **Mustafa Hajibeyli**, the Government responded that an unauthorized picket had been held on 15 August 1998 by members of the Popular Front of Azerbaijan. The authorities had not been notified in writing of the picket as required by law, so law enforcement officials took steps to suppress the unlawful actions of the participants, and a number of individuals were escorted to police station No. 9 in Baku, including Sahil Kerimli who was released immediately after verification of his identity. Any information regarding the detention and beating of Aydin Bagirov and Mustafa Hajibeyli have not been substantiated and no complaints have been filed by them with the competent authorities.

101. Concerning the beating of the journalist **Vazirogli Haji Zamin**, the Government confirmed that an incident had taken place at the Kara Karaev subway station involving S.A. Hajimaliev and the Baku subway police officer R.V. Kerimov, following which Vazirogli Haji Zamin was escorted to the police station. A verification was conducted by the Baku Municipal Transport Procurator's Office. No evidence of bodily injuries were found at the forensic medical examination. Criminal proceedings were instituted against S.A. Hajimaliev for hooliganism and against the police officer for "action ultra vires". On 27 August 1998, they were formally charged and remanded in custody as a preventive measure. The criminal case was referred for further investigation to the National Transport Procurator's Office. In response to an appeal for a lighter preventive measure by the newspaper for which the victim worked, remand was amended to conditional discharge. On 18 September 1998, investigation into the case were concluded and the matter was referred to the courts. In the court proceedings the guilt of the two individuals was established on all counts and, on 8 October 1998, R.V. Kerimov was given a suspended sentence of one year's deprivation of liberty and was dismissed from the police force, and Mr. Hajimaliev was sentenced to one year's punitive deduction of earnings. The victim did not lodge an appeal for cassational review.

102. Concerning the editor **Talesh Hamid-ogly Babaev** (Taleh Hamid), criminal proceedings were instituted by the Procurator's Office of the Republic of Azerbaijan for "action ultra vires", and the case was referred to the Baku City Procurator's Office for investigation. Suspects and witnesses were questioned and a forensic medical examination was conducted which revealed that the victim had sustained minor bodily injuries. Despite full investigative measures, the guilt of the persons charged could not be established and the criminal proceedings were discontinued for lack of evidence. The case was subsequently reopened by the Procurator's Office, which overturned the decision to discontinue the proceedings. The case was referred for the conduct of a new investigation, monitored by the Procurator's Office, with the instruction that additional proof of the guilt of the persons charged should be sought.

103. Concerning the journalists **Zaki Jabbarly** and **Dilgam Bayramov**, the Government provided further information that the case had been reopened by the Procurator's Office and the decision to discontinue the proceedings had been overturned. The case was referred for the conduct of a new investigation, monitored by the Procurator's Office, with the instruction that additional proof of the guilt of the persons charged should be sought.

104. Concerning **Sabuhi Gafarov** and a number of women, the Government responded that the Nasimi District Police Authority in Baku had decided to take crowd-control measures around the mosque during the religious services, knowing that large numbers of people tried to force their way into the cramped inner courtyard. To quell the jostling and commotion in the crowd, the police officers allowed women to proceed into the inner courtyard of the mosque singly and in small groups. No acts of violence either against members of the congregation or other individuals were found to have been committed. Sabuhi Gafarov lost his camera in the commotion, but it was later returned to him. During the inquiry, Sabuhi Gafarov and Aygyun Ismaylov expressed the view that the possibility that women had been beaten by police officers could not be excluded. As no substantiating evidence was received, no criminal proceedings were instituted.

105. Concerning the journalist **Ilham Shaban**, the Government responded that he had been invited to the Baku City Procurator's Office and questioned. He confirmed that he had been struck by a police officer but had sustained no bodily injuries and therefore did not wish to file a complaint. A medical examination of Ilham Shaban also did not find any injuries to his person. When informed of his right to file an official complaint with a view to instituting criminal proceedings, he declined to do so.

Observations

106. The Special Rapporteur appreciated the responses of the Government. The report of his visit to Azerbaijan may be found in Addendum 1 to the present report.

Bahrain

107. By letter dated 10 August 2000, the Special Rapporteur advised the Government that he had received information on the following individual cases.

108. **Mansoor Abdul Wahid Al Shehabi** was reportedly arrested by the police in the street in the early hours of 18 November 1999. During his arrest, he was said to have been severely beaten, kicked and punched until he fainted.

109. **Mohammed Saleh Al sheik**, from Karzakan, was reportedly arrested by the Security Intelligence Service (SIS) on 18 December 1999 and brought to the Al Qalá police station in Manama. He was allegedly dragged out of his house, bitten by police dogs and severely beaten on the street.

110. **Halima Hassan Sdeif Ahmed** was reportedly arrested at her father's house by members of the SIS, dragged out by her hair and beaten on 16 December 1999. She was said to have been transferred to the Isa Town Detention Centre, where she was allegedly subjected to further

physical and mental ill-treatment. On 6 January 2000, she was reportedly released following a payment of 600 dinars by her family, but re-arrested on 11 January. On 16 January, she was reportedly presented to the State Security Court and later released.

111. **Haj Isa Mohammed, Haj Baqir Mohammed** and **Seyed Juma Seyed Majid** were reportedly arrested by security forces on 28 November 1999. The security forces are said to have entered the houses of the families of the above-named persons and to have let loose their dogs. On 2 December they were allegedly required to report to the police station, where they were said to have been threatened, harassed and beaten.

112. **Naji Ahmed Salman**, from Kawarah, was reportedly detained on 5 January 1997 and placed in administrative detention in the Dry-Dock prison camp. He was said to have been transferred to Salmanya Hospital on 31 March 2000 for medical treatment, allegedly to deal with the effects of torture.

113. **Sheikh Abdul Ameer Al-Jamri**, a former judge, member of the Committee for Popular Petition (CPP) and former member of the dissolved National Assembly, was reportedly arrested on 21 January 1996 and held in detention. On 21 February 1999, he was said to have been brought before the State Security Court. He was allegedly forced under torture to sign a confession. He later reportedly withdrew the confession before an examining magistrate. On 7 July 1999, he was reportedly sentenced by the State Security Court to 10 years' imprisonment. In detention, he was said to have been subjected to ill-treatment which allegedly intensified in March 1999. He was reportedly placed in solitary confinement and subjected to sleep deprivation. He was reportedly released on 8 July 1999.

114. **Hussain Mahdi, Mohammed Khaleel** and **Abbas Mansoor**, three 17-year-old juveniles from Sind, were reportedly surrounded by three SIS jeeps, severely beaten and kicked by SIS officers and subsequently taken to the Al Qalá police station in Manama on 15 September 1999.

115. **Hassan Ahmed Issa, Karim Ahmed Isa, Jawad Ali Jacoob** and **Muhussain Ali Jacoob**, from Ma'amir, were reportedly arrested by the SIS on 18 December 1999 and taken to the Al Qalá police station in Manama, where they were allegedly severely beaten and suspended by their arms and legs. They were reportedly released several hours later.

116. **Ali Abbas Ali Abdulla Al Katan** and his wife, both from Bilad Alqadeem region, were reportedly arrested by SIS officers and taken to the Al Qalá police station in Manama on 14 December 1999. His wife was reportedly subjected to physical and psychological ill-treatment. The officers allegedly told Ali Abbas Ali Abdulla Al Katan that if he did not sign a prefabricated confession, they would rape his wife.

117. **Hani Mohammed Al Fardan** and his brother **Jassin**, from Karzakan, were reportedly summoned to the Al Qalá police station on 10 December 1999. They were reportedly held for a week, during which time they were allegedly severely beaten and not given proper food.

118. **Hussain Karim**, from Madeenat Hamad, was reportedly arrested on 6 December 1999 by SIS officers who had ransacked his house. They are said to have beaten him severely inter alia with hose pipes, and to have threatened his wife and children. Hussain Karim was reportedly released two days later.

119. **Haj Isa Mohammed, Haj Baqir Mohammed** and **Seyed Juma Majid**, from Karzakan, were reportedly summoned to the Al Qalá police station in Manama on 1 December 1999. On 3 December, they were again summoned to the police station, along with all their male family members. There they were reportedly beaten with hose pipes and threatened. A child called **Seyed Shubir Seyed Maki** was also said to have been subjected to ill-treatment. They were allegedly released several days later.

120. **Hussein Ahmed Isa Abdullah Al-Sayeg**, from Abu Saiba, was reportedly arrested by the police on 15 March 1995. Officers from Al-Khamis police station are said to have broken into his house, to have beaten his sister-in-law and to have destroyed the contents of the house. They reportedly questioned him about his brother Isa Ahmed Isa, who was not at home, and tied him to his brothers **Muhammad**, **Ali** and **Hameed** with plastic strings. They were allegedly taken to a car, where they were severely beaten. The officers reportedly took them to the house of **Haj Darweesh Ahmed Salman** and broke into it. They reportedly beat his son **Ali**. Hussein Ahmed Isa Abdullah Al-Sayeg and his brothers were subsequently taken to the Al-Khamis police station. They were allegedly severely beaten on their way from the car. Hussein Ahmed Isa Abdullah Al-Sayeg and his brother Hameed were subsequently released. His brother Muhammed Ali was reportedly kept in detention for six months without trial. On 5 August 1995, police officers were said to have gone to his brother **Abdul Wahab's** house, to have threatened his family and to have told his brother that if Hussein Ahmed Isa Abdullah Al-Sayeg did not surrender to the Al-Khamis police station, they would arrest them all. Hussein Ahmed Isa Abdullah Al-Sayeg reportedly went with his brothers to the police station, where he was arrested. He was allegedly blindfolded, severely beaten and then taken to a car. He was reportedly subsequently taken to Al-Qala'a prison, where he was forced to stand and listen to his friend Ali Jaafer Abdul Hussein being tortured. He was subsequently severely beaten on different parts of his body. He is then believed to have confessed.

121. **Abdullah Naser Mohammed Abdullah Al-Tooq**, a Shia activist from Sitra, was reportedly arrested on 18 February 1996. Security forces allegedly handcuffed and blindfolded him and dragged him to a police car. When his brother protested, an officer reportedly ordered to have him arrested. His brother allegedly ran away and was shot at by the officers. In the car, Abdullah Naser Mohammed Abdullah Al-Tooq was reportedly beaten on the head by two police officers in the back of the car. He was reportedly taken to the Ministry of the Interior, where he was placed in a room with a number of police officers and security personnel. He was reportedly asked how he caused explosions at the Meridian and Diplomatic hotels, which he denied. He was allegedly beaten by a Yemeni police officer on both ears at the same time, and had an iron bar placed under his knees and was allegedly hung between two ladders (al-falka). Officers are said to have removed all his fingernails and nine of his toenails with a pair of pliers. He was then allegedly taken to hospital, where his toes were wrapped. He was then forced to stand for several hours. When he refused to sign a prepared confession, the officers are said to have inserted a bottle with a broken neck into his anus. He was then reportedly taken to hospital and

subsequently transferred to a solitary confinement cell in Al-Qala'a prison. There, security officials reportedly hung his brother from the ceiling (al-falqa method) and tortured him in front of him. After several weeks, he was taken to the State security court. There Abdullah Naser Mohammed Abdullah Al-Tooq is said to have given his nails, which had been removed under torture, to his lawyer, who in turn presented them to the court and stated during the trial that his client's confessions had been extracted under torture. The judge is said to have refused to listen to the lawyer. On 26 June 1996, Abdullah Naser Mohammed Abdullah Al-Tooq was said to have been sentenced to life imprisonment. On the next day, he and two other detainees, Akeel Naji and Mohammed Ahmed Al-Mukhtar, were reportedly taken to an ironsmith, where their feet were placed in iron cuffs. On 25 August 1996, his hand and foot cuffs were reportedly removed.

Urgent appeals and replies received

122. On 12 January 2000, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Halima Hassan Sdeif Ahmed**, who had been beaten at the time of arrest at her home on 16 December 1999. She was allegedly held incommunicado at Issa Town Detention Centre in conditions described as "miserable". **Fatima Salman Maki Salman** and **Asia Abdul Aziz Ismael**, who were detained with her, are believed to have been ill-treated in order to extract a confession concerning Halima Hassan Sdeif Ahmed.

123. By letter dated 6 April 2000, the Government indicated that Halima Hassan Sdeif Ahmed had been arrested twice by the regular police in the act of committing offences likely to cause a breach of the peace. She was then detained by order of an ordinary court, which eventually released her on bail. The Government denied the allegation of ill-treatment.

124. On 23 February 2000, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Seyyed Jalal Alawi Ahmed,** who had reportedly been arrested by the security forces on 16 February 2000. When his family reportedly enquired about him at Budaya police station, they were allegedly told that nothing was known of him as he had reportedly been arrested by officers of the "Isa Town" police station. He is believed to have been arrested in connection with his university activities.

125. The Special Rapporteur also intervened on behalf of **Hassan Al Saqq'ai, Zuhair Al Sahir, Seyyed Hussain, Hussain Darwish** and **Seyed Hassan Adnan,** who had reportedly been arrested in the Daih and Karzakan areas on 14 February 2000 and were believed to have been taken to Al'Khamis police station. No reason for their arrest was said to have been given.

126. By letter dated 6 April 2000, the Government indicated that the allegations that the above-mentioned persons were at risk of torture were entirely untrue. It gave further information on Syyed Jalal Alawi Ahmeed (real name: Sayedd Jalal Alawi Ahmed Fadhal), arrested on 16 February 2000, and Hassan Al-Saqq'ai (real name: Hassan Abdu Ali Ali Al-Sakkae) and Zuhair Al-Sahir (real name: Zuhair Jassim Ahmed Mehdi), arrested on 13 February 2000. All three were said to remain in custody in accordance with the due process of the law. They were

in good health and held in regular places of detention. Others could not be traced, but the Government indicated that two persons with similar names who had been arrested on 6 February 2000 had been released on 14 February.

127. On 23 May 2000, the Special Rapporteur sent an urgent appeal on behalf of **Ammar Ali Mansoor Al-Shehabi**, aged 15, **Isa Mahdi Abdul Nabi**, aged 17, and **Sadiq Abdulla Qassim**, aged 14. A large group of security forces reportedly attacked three houses in Duraz on 24 April 2000. They were reportedly detained at that time. On 20 April 2000, they were allegedly dragged by the security forces to Duraz and were forced to paint slogans while being filmed. They were currently detained by the Criminal Intelligence Directorate.

128. By letter dated 7 June 2000, the Government indicated that the allegations that the above-mentioned persons were at risk of torture were untrue. Arrested for vandalism by the regular police, they were all released without charge on 10 May 2000, after giving undertakings to be of good behaviour and had been properly treated, held in humane conditions and afforded all their rights of visit, welfare and medical care in accordance with international standards.

129. On 20 June 2000, the Special Rapporteur sent an urgent appeal on behalf of three 13-year-old boys, **Abdulla Saeed Jasim Azbeel, Seyyed Jaffer Seyyed Hussain**, and **Mahmood Mansoor Al-Asmakh**, who had reportedly been detained in Iskan Jedhafs on 25 May 2000, during dawn raids carried out by the security forces. They were reportedly taken to Adleya detention centre. **Ali Makki**, a 13-year-old boy, who had reportedly been summoned by the security police on the same day, was also arrested. **Mohammed Jawad Makki**, a 14-year-old boy from the same area, is reportedly using crutches a result of the ill-treatment he was allegedly subjected to.

Follow-up to previously transmitted communications

130. By letter dated 13 April 2000, the Government responded to the communications sent by the Special Rapporteur in November 1999 (E/CN.4/2000/9, paras 78-104). It categorically denied all allegations of torture which were said to be unsupported by any evidence. It further indicated that of the 71 persons whose names were listed in the communication, 29 had been released, 8 remained in detention and 34 were untraceable owing to insufficient information. The Government informed the Special Rapporteur that a comprehensive system of domestic remedies existed in Bahrain to address allegations such as those contained in his communications. Nevertheless, no complaint had been made by or on behalf of any of the individuals referred to in the Special Rapporteur's communication. It also referred to the recently established independent human rights institution. Finally, the Government indicated that the International Committee of the Red Cross was conducting regular visits to all places of detention.

131. Regarding the death of Mohamed Abdulla Hassan Mohamed Al Sayyah (ibid., para. 79), the Government indicated that he had been released on 12 July 1995 and admitted to hospital on 19 August 1995. At that time, he was diagnosed with cancer from which he died in hospital on 30 September 1995. A copy of the death certificate was transmitted to the Special Rapporteur.

132. By letter dated 6 April 2000, the Government responded to an urgent appeal sent on 16 March 1999 (E/CN.4/2000/9, para. 107) on behalf of Ali Al Sadadee (real name: Ali Mohamed Ali Fadhel), arrested on 20 February 2000 and released on 26 July, Adnan Seyed Hashem (real name: Adnan Hashim Ali Hussain), arrested on 27 February 1999 and released on 27 July, and Sadeq Al Dirazi (real name: Sadeq Mohamed Jaffar Hussain), arrested on 16 February and still in custody. All were arrested by the regular police after repeated warnings for public incitement. The Government denied all allegations of torture and indicated that all their rights were guaranteed.

133. By letter dated 6 April 2000, the Government responded to an urgent appeal sent on 18 October 1999 (ibid., para. 109) on behalf of Hamid Ali Yousif Yahya (real name: Hameed Ali Yousuf Fatar) and Ismail Isa (real name: Sayed Ismail Eissa Hashim Majid), both arrested on 2 October 1999 and released on 20 March 2000, and Ali Salman (real name: Ali Al Sayed Sulaiman Al Sayed Mohamed), arrested on 3 October 1999 and released on 25 March 2000. They were arrested by the regular police force for incitement and were not mistreated in any way.

134. By letter dated 27 April 2000, the Government responded to an urgent appeal sent on 19 November 1999 (ibid., para. 110) on behalf of a large number of persons arrested in mid-October 1999. Eleven of them have been arrested, of whom two have been released while nine remain in custody. No information was found on 15 of the persons mentioned in the urgent appeal. The Government assured the Special Rapporteur that all were well treated while in custody.

Observations

135. The Special Rapporteur appreciates the continuing disposition of the Government to respond to allegations transmitted by him, but finds unhelpful responses consisting of blanket denial of numerous cases, as reflected in paragraphs 123, 126, 128, 130, 132 to 134 above. He regrets that, since his request in 1998 to visit Bahrain, no such invitation has been forthcoming. Under the circumstances, he feels compelled to indicate his assessment of the situation on the basis of the information currently available to him.

136. Over the years, he has received consistent information suggesting the existence of a pattern of torture and cruel treatment, especially in the case of persons suspected by the Security Intelligence Service (SIS) of involvement in politically-motivated offences. The availability of prolonged incomunicado detention, itself a form of cruel, inhuman or degrading treatment (as repeatedly affirmed by the Commission), facilitates the possibility of torture and ill-treatment being inflicted and makes denial less credible. The Special Rapporteur is accordingly disposed to believe that an extensive practice of torture and ill-treatment exists in Bahrain, with suspected members of political opposition groups, sometimes pursuing an agenda in furtherance of a brand of religious belief, being particularly at risk.

Bangladesh

137. By letter dated 5 October 2000, the Special Rapporteur advised the Government that he had received information on the following individual cases.

138. **Saiful Islam Solet** was reportedly arrested on suspicion of theft and taken into police custody in Tongi Thana, Gazipur district. On 15 June 1999, he allegedly killed himself by ingesting pesticide whilst in police custody. He had allegedly been tortured.

139. **Dharma Joyti Chakma, Bplob Chakma, Pravat Kusum Chakma** and **Jatiu Chakma**, all students, were reportedly arrested and severely beaten on 10 March 1998 in Dhinginala in Khagrachari following their participation in a meeting of the Hill Student Council. The police are reported to have attacked the crowd with tear gas and batons. The above-named students were reportedly detained until November 1998.

140. By letter dated 10 October 2000 sent in conjunction with the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur advised the Government that he had received information concerning the alleged increase in the number of women who are subject to the practice of burning with acid following, for example, family disputes, rejections of marriage or sexual advances. It is reported that in a number of cases there has been no investigation nor attempt to bring the perpetrators to justice. The following cases were brought to the attention of the Government.

141. **Bhancha Sana** was reportedly burned by acid outside her house on 20 July 2000 in the village of Ghughumari, in the district of Satkira. It is alleged that her chest was severely burned in the incident and other parts of her body were also burned. **Fatema Begum** is reported to have been attacked with acid in her hometown at the Nagua bus stand in the district of Sadar Kisoregonji. Her head, face, hands and throat have been permanently scarred. **Shah Alam** was allegedly attacked with acid in her village, Birponiu, in the district of Bogra on 22 July 2000. She was seriously and permanently injured on her face, chest and waist. She suffered more minor injuries on her hands and throat.

Follow-up to previously transmitted communications

142. By letter dated 15 March 2000, the Government responded to cases transmitted by the Special Rapporteur in 1994, 1995, 1996 and 1999.

143. Concerning Prem Kumar Chakma (E/CN.4/1995/34, para. 52), the Government denied the allegations of torture and indicated that he did not lodge any complaint with the local police. He had been interrogated about insurgents' activities by military persons in 1993.

144. Concerning Gyang Mrash Marma (ibid., para. 53), the Government denied the allegation of rape but indicated that she had been molested by a police constable who had subsequently been punished following an inquiry led by the Superintendent of Police.

145. Concerning allegations of ill-treatment of children by the police (ibid., para. 54), the Government indicated that the 1995 Women and Children Repression (Special Provision) Act severely punishes offences committed against children. It added that convicted children are kept separately from adult prisoners.

146. Concerning Mohammad Shawkat (ibid., para. 55), the Government indicated that the two constables were given forced retirement as they were found guilty of sexual harassment.

147. Concerning Rahinga Muslim refugees (ibid., para. 56), the Government stated that most refugees had been voluntarily repatriated to Myanmar and denied allegations of ill-treatment.

148. The Government provided the following information with respect to the individual cases relating to local arbitration councils, known as salish (E/CN.4/1996/35/Add.1, paras 57-59). Concerning Nurjahan (Moulibazar district), all nine persons responsible for the torture were sentenced by a Court. Concerning Nurjahan (Faridpur district), a criminal motion was filed before the High Court Division against the order of acquittal. Concerning Roqaiya, charges were brought against 10 persons; the case is currently under trial. Concerning Rezia Khatun, it was not possible to localize the village mentioned. Concerning Sahida, charges were brought against 11 persons; the case is currently under trial. Concerning Julekha, charges were brought against three persons. Concerning Dulali, the sentence pronounced by the salish was not executed. Concerning Sapnahar, the case was brought to a regular court and charges were brought against one person, who is currently facing trial.

149. Concerning Dhaka University students residing at Jagannath Hall (E/CN.4/1997/7/Add.1, para. 17), the Government indicated that the police had arrested 96 persons during a raid in January 1996. None of the victims mentioned in the communication of the Special Rapporteur could be found.

150. Concerning the allegations of torture and rape in the Chittagong Hill Tracts (ibid., para. 18), the Government provided the following information. Concerning Kazali Chakma, Jitandra Chakma, Nepali Chakma, the allegations of rape proved to be unfounded. Concerning Puspa Chakma and Purna Bijoy Chakma, the allegations of severe beatings proved to be unfounded. The Government confirmed that they had been arrested by military personnel and transferred to police custody. Their cases were pending at Rangamati and Chittagong courts, respectively.

151. Concerning the Hill Student Council, the allegations of beatings proved to be unfounded. The police were called to avoid clashes between two different groups, the Pahari Chatra Parishad and the Pahari Gono Parishad. Some demonstrators threw stones at police officers, some of whom were injured. The police then tried to arrest some demonstrators. A case was subsequently filed at the Bandarban police station. Concerning Bhuban Joy Chakma, Parancha Chakma, Sneha Kumar Chakma and Manu Ranjan Chakma, the allegations of torture proved to be unfounded. Concerning Bideshi Chakma, the Government indicated that he could not be traced.

Belarus

152. By letter dated 5 October 2000, the Special Rapporteur advised the Government that he had received information on the following individual cases.

153. **Vladimir Arkhipovich Pelykh** was allegedly tortured whilst in pre-trial detention on robbery charges at the beginning of 2000. His interrogators are alleged to have placed a barrel over his head whilst they banged the barrel with iron rods. A plastic bag was said to have been put over his head to suffocate him. He was allegedly suspended by an iron bar with his arms

handcuffed behind his back and subjected to electric shocks. He was also alleged to have been beaten, particularly on his internal organs so as not to bruise, and to have been denied medical treatment.

154. **Andrey Klimov**, a member of the parliament dissolved by President Lukashenko in November 1996, has reportedly been in detention since February 1998 after being charged with financial impropriety. During his trial on 8 and 9 December 1999 at the Leninsky court, he refused to leave his cell to attend the court. Prison officials are then alleged to have forced him to the floor of his cell and kicked him. Thereafter, he was dragged to the court, where it is reported, he could barely walk.

155. **T.D. Vinnikova**, former chairperson of the National Bank of the Republic of Belarus, was reportedly arrested on 14 January 1997 on grounds that bank employees had received illegal bonuses. She was allegedly detained at the National Security Committee. During her 10-month detention she was allegedly held in solitary confinement without regular contact with her lawyer. She was kept in a small, damp, cold, dirty cell which had both a light and radio constantly switched on. She was allegedly searched and watched by male guards and was forced to undress, go to the toilet and shower in front of them. She reportedly suffered from gynaecological problems causing her to bleed frequently. In November 1997, she was allegedly permitted to leave the detention centre but only on condition she remained under house arrest at her son's apartment. Two law enforcement officers were required to be accommodated in the flat. During this period T.D. Vinnikova's gynaecological problems worsened and although she was allowed to receive medical treatment she could not be operated upon because the hospital was unable to accommodate the guards that watched her.

156. On 17 October 1999, the Belarus opposition staged a large-scale demonstration in Minsk involving approximately **twenty thousand demonstrators**. At least 200 people were subsequently detained. The majority of these persons, who are said to be minors, were released the following day. It is reported that a number of those detained were subjected to torture and other forms of ill-treatment by the police. In particular, the Special Rapporteur has received information on the individual cases listed below.

157. **Alyaksandr Shchurko**, aged 40, was allegedly detained on 17 October 1999 at Yanka Kupala Street in Minsk by police officers and forced into a police car to be taken to Partizansky District Department of Internal Affairs (DDIA). He was charged with taking part in an unsanctioned demonstration and detained. On 18 October 1999, he was reportedly transferred with 10 other detainees to another detention centre in a police station bus operated by police officers from the special police unit (OMON). During the two-hour journey to the detention centre, he and other detainees were both physically and verbally abused. He complained to the authorities about his ill-treatment. However it is said that the Belarusian authorities have put pressure on him to withdraw the complaint.

158. **Mikalaj Hanchar** was reportedly picked up by the police and taken to a bus with other detainees. On the bus, the officers allegedly knocked him and other arrested persons off their feet and pushed them on top of one another. Those on top were beaten, jumped on and trampled by the police.

159. **Stanislau Kavalou** was among the people alleged to have been detained by the police when leaving the demonstration and going towards the metro station. He was reportedly first taken to Minsk Saviecki DDIA and then, in the middle of the night, was thrown into the back of a police bus to be transferred to another place of detention. For three or four hours, he and the other detainees were allegedly cramped so tightly together that they could hardly breathe. On arrival, as he got off the bus, he was reportedly kicked and beaten with truncheons. He and other detainees were then allegedly placed against the wall with their arms and legs spread widely apart and the officers continued to beat them.

160. **Volha Barjalaj** was reportedly detained by police and taken to Piershamajski DDIA. He and 10 others are alleged to have been pushed and kicked into the back of a bus where they were forced to lie on top of each other. Reportedly, when the bus set off the police began to trample and beat the detainees. Once they arrived at Piershamakjska they were taken off the bus in small groups and allegedly stood against a wall, whereupon they were beaten with truncheons.

161. **A large number of persons** are said to have been arrested during an unsanctioned demonstration in Minsk on 25 March 2000, which coincided with the anniversary of the creation of the first Republic of Belarus in 1918, to protest against President Lukashenko. During the demonstration between 400-500 demonstrators were reportedly detained for several hours by the police. While around 200 detainees were reportedly held in a city sports hall, others were held at various police stations and detention centres. Most of the detainees were reportedly released between two and three hours later. A number of people have complained of being knocked to the ground, beaten with truncheons, kicked by police officers and verbally abused. In particular, **Yury Belenki**, the deputy chairman of the Conservative Christian Party of the Belarusian Popular Front, and his companions were reportedly attacked by a group of police officers on Yakub Kolas Square in Minsk. During the attack, Yuri Belenki was reportedly hit in the face with a truncheon, knocked to his feet and repeatedly punched and kicked. The relevant prosecutor's office in Minsk has reportedly refused to investigate his allegations of police ill-treatment.

Follow-up to previously transmitted communications

162. By letter dated 10 February 2000, the Government responded to the cases transmitted by the Special Rapporteur in November 1999 (E/CN.4/2000/9, paras. 127-131).

163. Concerning **Vyacheslav Vadimovich Sivchyk**, the executive secretary of the Belarusian People's Front, the Government stated that he had taken part in an illegal demonstration and was accordingly sentenced by the Minsk Central District Court to 10 days' administrative detention on 3 April 1998. It noted that he did not file any complaint.

164. Concerning Irina Khalip, the Government indicated that she had participated in an unauthorized demonstration on 2 April 1997 and confirmed that she had made the allegations referred to in the communication of the Special Rapporteur. On 24 April 1997, the Minsk Central District Prosecutor opened criminal proceedings on the grounds that unidentified militia officers had exceeded their authority. The investigation revealed that in the situation which

developed after the rally (stones being thrown by demonstrators), the militia officers acted in accordance with the powers granted to them by the Militia Act and had not exceeded their authority. The proceedings were therefore discontinued.

165. Concerning Vladimir Yukho, the Government indicated that he had participated in an unauthorized demonstration. Militia officers had to use physical force at the time of his arrest since he refused to go voluntarily to Lenin District police station. In the vehicle conveying him there, he continued to resist the officers, as a result of which he injured himself. He received medical attention upon arrival at the police station. The Government confirmed that according to a medical report, he had a bruised throat and an abrasion to the rear of his left radiocarpal joint. It was later established that he had sustained these injuries while acting unlawfully, i.e., obstructing militia officers. The Assistant Procurator of the Lenin District decided not to open criminal proceedings on the grounds of the absence of any element constituting a breach of the law.

166. Concerning the demonstration held on 17 October 1999, the Government indicated that demonstrators had gathered at Y. Kolas Square despite the fact that the rally had only been authorized in another location. A group of demonstrators was eventually stopped by a cordon of militia and began to throw stones at militia officers. As a result, more than 50 officers of the Ministry of Internal Affairs sustained injuries. On 17 October 1999, the Minsk Procurator's Office initiated criminal proceedings on the grounds of organizing or participating in a violation of public order committed by a group of persons. The Sovetsky and Partizansky Procurator's Offices in Minsk looked into allegations made by certain citizens, amongst them, V. Chernaev, that their rights had been violated. It was concluded that there were not enough elements to open criminal proceedings.

Observations

167. The Special Rapporteur shares the concerns the Committee against Torture expressed in November 2000 after its consideration of the third periodic report of Belarus under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as follows: "[t]he absence of a definition of torture, as provided in article 1 of the Convention, in the Criminal Code of the State party and the lack of a specific offence of torture with the result that the offence of torture is not punishable by appropriate penalties, as required in article 4.2 of the Convention; [t]he numerous continuing allegations of torture and other cruel, inhuman or degrading punishment or treatment, committed by officials of the State party or with their acquiescence, particularly affecting political opponents of the Government and peaceful demonstrators, and including disappearances, beatings and other actions in breach of the Convention; ... [and t]he pattern of failure of officials to conduct prompt, impartial and full investigations into the many allegations of torture reported to the authorities, as well as failure to prosecute alleged perpetrators." (CAT/C/XXV/Concl.2/Rev.1).

Belgium

168. Par une lettre datée du 9 octobre 2000, le Rapporteur spécial a informé le gouvernement qu'il avait reçu des renseignements selon lesquels un certain nombre de techniques de contrainte utilisées par les gendarmes lors des tentatives de renvois forcés, en particulier la technique dite

du coussin, qui consiste en l'application d'un coussin sur la bouche de la personne concernée de manière à l'empêcher de crier ou de mordre, mettraient en danger la vie des personnes concernées.

169. **Semira Adamu**, une Nigérienne, serait décédée à l'aéroport de Bruxelles en septembre 1998 alors qu'elle faisait l'objet d'une tentative de renvoi forcé. La technique dite du coussin serait à l'origine de son décès. Une enquête par un juge d'instruction concernant les circonstances de sa mort aurait été close, mais le dossier aurait été finalement renvoyé au bureau du procureur public afin de décider de l'ouverture de poursuites judiciaires. Trois gendarmes auraient par la suite été mis en examen.

170. Le Rapporteur spécial a par ailleurs transmis des renseignements concernant l'utilisation de gants spécialement rembourrés destinés à couvrir la bouche des personnes déportées, risquant ainsi de bloquer leurs voies respiratoires. Les personnes déportées seraient placées face contre terre, pieds et poings liés dans le dos. Certains auraient été laissés dans cette position pour de longues périodes. En particulier, le Rapporteur spécial a transmis des renseignements concernant les cas individuels suivants.

171. **Prince Obib**, un demandeur d'asile nigérian, aurait été maltraité alors que des gendarmes tentaient de le renvoyer depuis l'aéroport de Bruxelles le 29 décembre 1999. Il aurait refusé d'embarquer et aurait alors été placé dans une cellule, pieds et poings liés dans le dos. Quatre gendarmes l'auraient ensuite traîné jusque dans l'avion, l'auraient frappé avec une ceinture et lui auraient donné des coups de pied. Une expertise médicale conduite au centre de détention pour étrangers Steenokkerzeel 127-bis aurait révélé des hématomes et des traces de griffures sur son visage et ses bras. En janvier 2000, le Ministère de l'intérieur aurait ouvert une enquête administrative qui aurait finalement été close suite aux conclusions d'une enquête judiciaire contre Prince Obi pour rébellion contre les forces de l'ordre.

172. **Kifle Alemayhu**, un Éthiopien, aurait été maltraité par des gendarmes à l'aéroport de Bruxelles le 20 mai 1999, alors qu'ils tentaient de le déporter contre son gré. Il aurait déposé plainte pour mauvais traitements. Un certificat du centre de demandeurs d'asile de Votten confirmerait qu'il aurait eu le tympan percé, ainsi que la présence de blessures aux poignets.

173. **Blandine Kaniki**, une demandeuse d'asile de la République démocratique du Congo, aurait été maltraitée en octobre 1998, alors qu'elle était accompagnée de son fils alors âgé de 5 ans. Elle et d'autres détenus auraient été maltraités au centre pour étrangers Steenokkerzeel 127-bis, par des gendarmes équipés de casques de protection et armés de boucliers et de bâtons. À l'époque, elle était enceinte de trois mois et aurait perdu le fœtus quelques semaines plus tard. Les gendarmes avaient été appelés pour mettre fin aux protestations par les détenus de ce centre relatives au renvoi d'un Nigérian qui aurait aussi été soumis à de mauvais traitements par les gardiens du centre. Blandine Kaniki aurait déposé plainte en novembre 1998.

174. **Hovhannes Karapetyan**, un Arménien, aurait été maltraité par des gardiens du centre 127-bis après avoir refusé d'être déporté en juin 1999.

175. Dans ce contexte, le Rapporteur spécial note favorablement la récente adoption (avril 2000) par le Ministère des transports d'un décret qui interdirait l'obstruction totale ou

partielle des voies respiratoires des personnes en voie de déportation, de même que l'utilisation de drogues et autres sédatifs destinés à les calmer. Ce décret prévoirait aussi la présence d'un docteur ou d'un observateur indépendant lors de toute déportation forcée par des gendarmes impliquant plus de quatre personnes.

Bolivia

Urgent appeals

176. El 14 de abril de 2000, el Relator Especial envió un llamamiento urgente conjuntamente con el Relator Especial sobre el derecho a la libertad de opinión y de expresión, el Presidente-Relator del Grupo de Trabajo sobre la Detención Arbitraria y el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias con relación a **Gabriel Herbas**, miembro del Foro del Medio Ambiente, **Walter Antezana**, Jefe de la Central Obrera Departamental, **Emilio Sajas**, Ejecutivo de Transporte Pesado de Cochabamba, **Ascencio Picha**, dirigente del Trópico de Cochabamba, **Felipe Quispe Huanca**, Jefe de la Federación Sindical Única de Trabajadores Campesinos de Bolivia, **Fred Nuñes**, Jefe del Sindicato de Profesores Rurales, **Ángel Claure**, **Sacarias Pereira, Víctor Cossío, Francisco Partis, Santiago Gareca, Citor Nina, Enriqueta Imaca, Emilio Rodríguez, Filomeno Rivera, Felipe Flores, Osvaldo Toco, Juan Yupura** y **Pedro Soto**, quienes habrían sido arrestados el 7 y 8 de abril luego de una semana de protestas contra el GobierNo. La mayoría de ellos estarían detenidos incomunicados en la lejana localidad de San Joaquín (Departamento de Beni). La policía habría usado fuerza excesiva durante los arrestos. Cinco personas habrían perdido la vida, incluyendo un oficial del ejército y un menor durante violentas confrontaciones entre protestantes y los militares en Cochabamba y La Paz. Al menos 40 personas habrían sido heridas, algunas con balas cuando el ejército habría abierto fuego contra los manifestantes.

177. El 18 de abril de 2000, el Relator Especial envió un llamamiento urgente conjuntamente con el Relator Especial sobre el derecho a la libertad de opinión y de expresión y el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, con relación a **David Goitia Benito** (de 16 años), **Franz Guzmán** (de 14 años), **Noel Guzmán** (de 12 años), **Wilfredo Plaza** (de 14 años), detenidos por fuerzas de seguridad y dos mayores: **Edwin Huanca** y **Bartolomé Flores**. Esas personas habrían sido torturadas para lograr que incriminasen a los jefes de la comunidad, a los jefes sindicales o a sí mismos. Habrían sido liberados pero seguiría existiendo temor por su seguridad y su libertad. David Goitia habría sido golpeado, tendría moretones en su torso y la nariz rota; Franz y Noel Guzmán habrían sido sumergidos en agua y golpeados; Wilfredo Plaza habría sido detenido y luego retornado a su casa; Bartolomé Flores y Edwin Huanca habrían sido mojados con agua y habría recibido descargas eléctricas. El 13 de abril, **Gloria Eyzaguirre y Jaime Buitrago**, periodistas del diario Presencia habrían recibido amenazas de muerte, así como una amenaza de bomba en sus locales. Las amenazas podrían deberse al hecho de que el diario habría publicado una serie de artículos sobre salas de juego clandestinas y sus vínculos con algunas esferas del poder, como también de grupos paramilitares hostiles a la línea editorial del diario. Desde el 10 de abril habrían recibido amenazas **Oswaldo Rojas**, corresponsal, así como el cámara y la redacción del canal televisivo PAT-Canal 39 en Cochabamba, que habría difundido imágenes de la represión de las manifestaciones en dicha ciudad, como así también los miembros de la red de televisión Periodistas Asociados Televisión (PAT), quienes habrían filmado y transmitido el disparo a **Hugo Gaza** (de 17 años).

178. El 18 de julio de 2000, el Relator Especial envió un llamamiento urgente conjuntamente con el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, con relación a cuatro prisioneros que estarían detenidos en celdas de castigo y aislamiento de la prisión de alta seguridad de San Pedro de Chonchocoro en La Paz, dos de los cuales podrían haber sido torturados. Después de que hubiesen muerto supuestamente en circunstancias no claras tres prisioneros en Chonchocoro el 28 y 29 de junio de 2000, otros cuatro prisioneros, **Juan Carlos Caballero, Oscar Martín Serna, Ronald Albert Horna Aranda** (peruano) y **Carlos Alberto Simoes Junior** (brasileño) habrían sido enviados a celdas de aislamiento. Dos de ellos, Juan Carlos Caballero y Carlos Alberto Simoes Junior habrían estado en la celda de castigo llamada "El Bote". Habrían sido esposados y sujetados por los tobillos mientras eran supuestamente torturados por miembros de la policía, algunos de ellos encapuchados. Los cuatro nombrados habrían permanecido en "El Bote" hasta el 8 de julio de 2000. Las condiciones de vida en las celdas de "El Bote" serían duras y no contarían con un sistema edilicio y sanitario apropiados. Cada celda tendría unas dimensiones de 2 x 1,5 m, y serían frías y húmedas.

179. El 6 de octubre de 2000, el Relator Especial envió un llamamiento urgente conjuntamente con el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, acerca de los sucesos acontecidos entre el 18 y el 28 de septiembre de 2000 a raíz de los cuales unas 40 personas habrían sido detenidas, 23 personas habrían resultado heridas y 3 personas habrían muerto, quienes habrían sido identificadas como: **Joaquín Morales, Cirilo Choquehuanca** y **Toribio Chui**. El 18 de septiembre de 2000, en la provincia de Omasuyos, centenares de campesinos habrían bloqueado la ruta a Copacabana, a la altura de Huarina, a orillas del lago Titicaca. Efectivos del Batallón Independencia del Sexto Distrito Naval habrían avanzado sobre el villorrio, produciéndose un enfrentamiento entre ellos, los campesinos que pedirían la anulación de la Ley de Aguas y un grupo de maestros que exigirían un incremento salarial. En estas circunstancias, los militares habrían disparado sus armas de fuego. Una avioneta habría sobrevolado la zona lanzando granadas de gases lacrimógenos.

Bosnia and Herzegovina

180. By letter dated 5 October 2000, the Special Rapporteur advised the Government that he had received information on the following individual cases.

181. **A group of 29 Roma** were reportedly beaten up by a group of Bosnian Serbs in Vlasenica municipality. The Roma had been recently deported from Italy where they had lived as refugees and, upon returning to Bosnia and Herzegovina had travelled to Vlasenica, where they had lived before the war, to see their houses. While in Vlasenica, they were reportedly attacked by a group of five local Serbs, who warned them to go back to the Federation - which they subsequently did. No steps were said to have been taken by the authorities in Vlasenica to investigate the attack, which caused serious injury to one young Rom.

182. **Another group of Roma** was reportedly attacked by some members of the ruling party, Stranka Demokratske Akcije, in Banovici on 11 April 2000. Five Roma are said to have sustained serious injuries, while local police present reportedly did not protect them from the violence.

Brazil

Urgent appeals

183. On 18 December 1999, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Gerson Souza Melo**, a leader of the Pataxo indigenous community who had been arrested on 15 December 1999 without a warrant and at gunpoint at a police road block in the State of Bahia. It is believed that his arrest is connected to the fact that he denounced the current conflict between the Pataxo and the military police. He was allegedly threatened at the time of arrest in relation with the death of 2 police officers when some 300 military police officers reportedly stormed the Pataxo encampments on 17 November 1999.

184. Por carta de fecha 5 de agosto de 2000, el Gobierno informó respecto al presente caso de que los conflictos ocurridos en noviembre y diciembre de 1999 están relacionados con la cuestión de la definición de la propiedad de la tierra en las reservas indígenas Caramuru y Paraguassu, cuya declaración como área de ocupación tradicional indígena ha sido contestada judicialmente por los hacendados locales. Gerson de Souza Melo ha sido liberado antes del 6 de enero de 2000, como consecuencia de la admisión de un recurso de hábeas corpus interpuesto por la Fundación Nacional del Indígena. Asimismo, la Fundación ha tomado las siguientes medidas para solucionar dicho conflicto y proteger los derechos humanos de las comunidades indígenas Pataxó y Pataxó Há Há Hái : a) solicitó apoyo a la Procuraduría Regional de la República en Ilhéus y a la Sexta Cámara de Coordinación y Revisión de la Procuraduría General de la República (Ministerio Público Federal), para que participen en la mediación de las negociaciones entre los indígenas y los hacendados; b) asignó al abogado Valdir Faria Mesquita para seguir los procesos judiciales relativos a las reservas indígenas Caramuru y Paraguassu; c) solicitó a la Secretaría Ejecutiva del Ministerio de Justicia la asignación, con carácter especial, de un jefe de policía federal, así como de policías y agentes federales, con miras a proteger la integridad física y asegurar el libre tránsito de los indígenas en la región.

185. On 21 January 2000, the Special Rapporteur sent an urgent appeal on behalf of the **Guarani-Nhandeva indigenous community** of the village of Potrero Guaçu, in Paranhos municipality, in Mato Grosso do Sul state. This village was reportedly attacked on 14 January 2000 by up to 50 heavily armed gunmen (pistoleiros) in military uniforms, apparently hired by local landowners who are said to have attempted to force this community out of an area due to be set aside as indigenous land. Several women were allegedly raped and several villagers, including a child, were allegedly severely beaten. Thirty villagers were then reportedly forced onto a truck and taken to other indigenous communities, allegedly in an attempt to clear them off the land. The whereabouts of a number of the villagers were still unknown. The attack reportedly took place with the apparent acquiescence of the local authorities. Access to and from the village was reportedly blocked for several days afterwards, cutting off medical support and food supplies to the community and obstructing the police from completing a full investigation. The road was later cleared by the Federal Police.

186. Por carta de fecha 23 de junio de 2000, el Gobierno informó de que efectivamente la comunidad indígena guaraní-nhandeva en Potrero-Guaçu, Mato Grosso do Sul, fue atacada el 14 de enero de 2000 por 50 pistoleros con los actos de violencia mencionados. Según la

Fundación Nacional del Indígena (FUNAI), los indígenas habrían sido llevados a la localidad de Parajuí, pero todos ya estarían de regreso a Potrero-Guaçu. El acceso al área ya está normalizado. La Policía Federal ha detenido a cinco de los pistoleros, y sigue con las investigaciones para identificar a los démas responsables de dichos actos.A su vez la FUNAI ha aumentado el número de sus funcionarios en la región y nombró dos abogados para un seguimiento del caso y prestar la asistencia que corresponda a los indígenas. La FUNAI informa asimismo de que el proceso de demarcación del territorio indígena en Potrero-Guaçu está avanzado y de que un grupo técnico de la Fundación ya identificó el área que podrá ser declarada como de ocupación tradicional indígena.

187. On 7 July 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions on behalf of **Anderson Carlos Crispiniano**, who had reportedly been taken away from his home in Morro do Adeus, a shantytown in Rio de Janeiro, on 28 June 2000, by a group of police officers, three of whom were said to be wearing the uniform jacket of the Rio de Janeiro State Civil Police. The police allegedly arrested him in connection with two recent homicides. However, they presented no arrest warrant and refused to indicate where they were taking him. His family was told at the Polinter police station that they had no information about his arrest. His family is then said to have received a telephone call from the officers who had taken him away, who instructed them not to speak to the police. Later, one of the officers reportedly demanded 5,000 reais, and reportedly threatened that if their demands were not met, they would plant drugs on him and kill him. The family reportedly handed the money to a representative of the officers, who reportedly returned with the detainee. He reportedly stated that he had suffered an epileptic fit. He had allegedly been severely beaten on the head, face and other parts of his body and had had four toenails torn out. He reportedly lost consciousness and was taken to the Bonsucesso General Hospital. As a result of the torture, he is reportedly unable to speak, suffers from partial paralysis and has been initially diagnosed as having suffered a stroke. On 3 July 2000, a Brazilian newspaper reportedly published an article about the incident. Shortly afterwards, the officers who had reportedly tortured Anderson Carlos Crispiniano called his family and threatened to kill him and his relatives if they did not keep quiet about the incident. Police officers are said to have visited the Bonsucesso General Hospital inquiring whether Anderson Carlos Crispiniano was being held there. No police protection is said to have been afforded to Anderson Carlos Crispiano and his family (see also E/CN.4/2001/66/Add.2).

188. On 28 August 2000, the Special Rapporteur sent an urgent appeal while on mission to Brazil regarding information he had received from the Public Prosecutors for Children and Adolescents of the City of São Paolo according to which at least three minors that he had met at the detention facility for minors Franco da Rocha, under the jurisdiction of the Fundação Estadula para o Bem Estar dor Menor (FEBEM) had been subjected to intimidation and reprisals, including beatings. On 24 August, these minors had provided the Special Rapporteur with information relevant to his mandate during confidential interviews. It is alleged that 24 hours later they were beaten and punched by FEBEM guards (monitores), some of whom were wearing hoods. They were allegedly told that this was in retaliation for the Special Rapporteur's visit. Furthermore, since this visit, it is reported that a large number of minors, mainly detained in G and H wings, were locked in their cells 24 hours a day. The Director of the FEBEM

Franco da Rocha detention centre is said to have indicated to the public prosecutors that, because of the large number of minors detained under his responsibility, he could not control all his subordinates (see also E/CN.4/2001/66/Add.2).

189. On 7 December 2000, the Special Rapporteur sent an urgent appeal on behalf of **Daniel de Brito Montenegro**, an inmate at Anibal Bruno prison in Recife, Pernambuco, who had reportedly been suffering from HIV for more than 10 years. He was said to have been transferred by a judicial order to Anibal Bruno prison in August 1999 in order to receive HIV treatment there. In June 2000, he had reportedly developed lesions on the left side of his face. He is said to be suffering from back pain, leg ache, he reportedly urinates blood and is said to have lost weight. At the time of the Special Rapporteur's visit, on 9 September 2000, he had still not been taken to hospital for an examination testing viral quantity required in order for him to receive medication for AIDS. Some days after the Special Rapporteur's visit, he was reportedly sent to the Correia Picanço Hospital but did not receive the examination testing the viral quantity, as there was no doctor available in that hospital. He is still reportedly not receiving any treatment for the virus.

190. On 15 December 2000, the Special Rapporteur sent an urgent appeal on behalf of **Dona Iraci Oliveira dos Santos** and her **16-year-old son** (whose name is known to the Special Rapporteur and whom the Special Rapporteur met during his mission to Brazil in September 2000). Her son had reportedly been arrested by the civil police in the town of Xinguara in Pará state on 7 June 1999. During the arrest, the police officers allegedly kicked and punched him, and threatened to kill him. On 9 June, he was released on the condition that his family would not register a complaint. As a result, he is said to have suffered severe mental and physical trauma. Since an investigation was opened into the case, Dona Iraci Oliveira dos Santos and her son are said to have been harassed and intimidated by the two police officers under investigation. The Superintendent of the civil police in the south of Pará and the Chief of the Xinguara civil police, who had been accused of complicity in the case, as well as the two officers under investigation, were reportedly transferred out of the Xinguara region. On 6 December 2000, Dona Iraci Oliveira dos Santos and her son arrived in Belém, where he is receiving specialist medical treatment for his psychological trauma. As they were leaving their hotel, they reportedly saw one of the police officers accused of torturing him in a van which was following them. Furthermore, one of the accused police officers had reportedly not been suspended from service, but had been transferred from Xinguara police district to Belém, where he is said to be working at the Delegacia de Menores, a police station dealing with juveniles.

Follow-up to previously transmitted communications

191. Por carta de fecha 23 de diciembre de 2000, el Gobierno informó respecto al caso transmitido en noviembre de 1999 sobre tortura en la sección Céu Azul de la penitenciaría Raimundo Vidal Pessoa en Manaos, Amazonas (E/CN.4/2000/9, párr. 138), afirmando que las dos principales causas de motines deberán ser eliminadas a corto plazo. La primera, concerniente a la disputa entre presos condenados y provisionales, ha sido eliminada mediante el traslado de 196 presos condenados al Complejo Penitenciario Anísio Jobim desde el segundo semestre de 1999. Respecto al problema del número excedente de presos en dicha Penitenciaría,

deberá ser resuelto cuando el Estado de Amazonas termine la construcción de la Penitenciaría de Puraquequara, con capacidad para 520 presos, lo que se prevé para el mes de julio de 2000. El Relator Especial no está informado de si las dos medidas han sido puestas en práctica.

192. Por carta de 30 de junio de 2000, el Gobierno informó, respecto al caso transmitido en noviembre de 1999 sobre casos de tortura y ejecuciones sumarias en la penitenciaría Róger en João Pessoa, Paraíba el 24 de julio de 1997 (E/CN.4/1999/61, párr. 90), de que el Secretario de Ciudadanía y Justicia del Gobierno del Estado de Paraíba el mismo 24 de julio de 1997, solicitó la asignación de un jefe de policía para conducir la investigación policial correspondiente y un procurador de justicia para seguir sus trabajos. Asimismo, ordenó la instauración de una comisión de investigación compuesta por defensores de oficio, oficiales de la policía militar, procuradores del Estado y abogados con el cometido de apurar la mencionada denuncia.

Observations

193. The Special Rapporteur appreciated the responses of the Government. The report on his visit to Brazil may be found in Addendum 2 to the present report.

Bulgaria

194. By letter dated 5 October 2000, the Special Rapporteur advised the Government that he had received information on the following individual cases.

195. **Tsvetalin Perov**, a 16-year-old Roma boy, was reportedly set on fire whilst in police detention in Vidin on 29 April 2000. He was allegedly arrested on 29 April 2000 on suspicion of burglary, taken to the Vidin district police headquarters and interrogated. He was later reportedly taken to the Sveta Petka hospital suffering from third degree burns to 15 per cent of his body. Official reports suggest that Tsvetalin Perov set fire to himself. However, on his arrival at the police station all his personal items had been confiscated in accordance with normal police procedures. It is alleged that the clothes he wore and the jacket used by a police officer to extinguish the fire have gone missing, thus making it difficult to determine the cause of the fire. This incident has reportedly been the subject of an investigation.

196. **Stefka Madjarova** was reportedly harassed and beaten on 17 January 1999 in Pleven. A police officer reportedly ordered her to follow him to a police station at the market, where she was beaten with a club. A complaint was reportedly lodged, including a medical report on Stefka Madjarova's injuries.

197. On 22 July 1999, three Roma men, **Atanas Assenov**, **Assen Assenov** and **Anton Assenov**, were reportedly accused by a private security guard of stealing fruit. The guard is alleged to have shot at them while they were trying to escape and to have wounded Anton Assenov in the back of the head. When police arrived and called an ambulance, the emergency medical technicians reportedly refused to treat him. The police officers are alleged to have then taken the three Roma men to the Pavlinkeni regional police department, where they reportedly beat Atanas and Assen Assenov. Anton Assenov was reportedly left outside the police department in a horse cart for several hours, after which the police called another

ambulance, and he received medical treatment. The Roma filed complaints against the police officers and security guard involved. On 16 November 1999, the Military Prosecutor's office declined to initiate a criminal proceeding on the matter.

198. **Tanya Borissova**, a Roma woman, was reportedly beaten on 8 September 1999 by three police officers outside the labour bureau in Pazardzhik.

199. **Lilyan Zanev**, **Spas Berkov**, **Nedyalko Zanev**, **Simeon Zanev** and **Roumyana Berkova** were alleged to have been stopped on 2 October 1999 by a police car on the outskirts of Pleven and questioned. Two officers in another police car joined the first and the three beat the five Roma with truncheons for approximately 30 minutes and told the Roma that they suspected them of intending to rob nearby homes. One man reportedly obtained a medical certificate documenting his injuries and filed a complaint with the regional military prosecutor's office in Pleven.

200. **Kostadin Sherbetov** reportedly died in pre-trial detention at the second precinct police department in Sofia on 21 September 1999. He was allegedly arrested following his apprehension by a private security firm. He had eight broken ribs, a head injury and severe bruising.

201. **Simeon** and **Veronika Vuchkov**, the parents of Gancho Vuchkov-Ganesta, were allegedly ill-treated by four officers of a reported secretive specialized anti-terrorist unit of the Bureau for Operational Investigation (BOI), Ministry of Internal Affairs, often referred to as "Berets", on 13 May 1998. The "Berets" were seeking their son, allegedly accused of car theft. A BOI officer allegedly struck Veronika Vuchkova on her right breast and shoulder with a rifle butt. Although a medical certificate is said to confirm the injury, and that it was caused by a hard object, the military prosecutor's office reportedly declined to open a criminal investigation into her complaint. One of the BOI officers who raided her apartment allegedly stated to Veronika Vuchkova that her son would be killed. She made a written protest to prosecutors on 18 May 1998 that her son dared not give himself up to such police officers for fear of summary execution. On 6 June 1999, Ministry of Internal Affairs personnel observed Gancho Vuchkov-Ganetsa playing football in the yard of the French Gymnasium School in Sofia, yet they did not take the opportunity to arrest him. They instead reportedly allowed him and his friend Angel Mitov to drive off in a car, after which several BOI and police cars gave chase at high speed and gunfire was exchanged. Gancho Vuchkov-Ganesta was reportedly wounded by a bullet to the head and died shortly afterwards.

202. **Airedin Mustafov**, from Slavyanovo, near Pleven, died five days after he was shot late on 2 December 1998. BOI officers are said to have chased and shot at him from a minibus on the outskirts of Sofia after he drove dangerously past their colleagues, who had signalled to him to stop. Uniformed officers also attempted to interdict him and fired shots. He was caught and taken to Sofia fifth district police station, where officers called an ambulance for him, reportedly after noticing a bullet hole in the driver's seat of his car. The medical team reportedly found him to be uninjured and departed. But near midnight he was taken to the Pirogov emergency hospital and discovered to have at least two bullet wounds. His relatives received his corpse on 8 December 1998. His body was said to be covered with marks suggesting he had been severely beaten and his nose and jaw were broken.

203. **Svetlyu Shishkov**, his son **Slaveiko** and friends were allegedly ill-treated at a beach on the west shore of the Iskar reservoir on 8 August 1999 by a group of about 15 BOI officers. Although the assailants were reported to have driven to the beach from the nearby BOI base and assaulted the Shishkovs in front of dozens of witnesses, apparently on the instructions of a man staying at a private resort used by government ministers, for many months afterwards the investigating authorities were reportedly unable to confirm whether the assailants were indeed police officers. The Shishkovs were allegedly harassed and intimidated. BOI officers are said to have been identified as the alleged perpetrators of the assault. In July and August 2000 the Shishkovs attended an identity parade of some of the alleged assailants. By August 2000 some BOI officers were said to have been indicted.

204. Finally, the Special Rapporteur transmitted information regarding the deaths of two children at the Dzhurkovo home for mentally handicapped children, Luki municipality, which may have resulted from extreme neglect. Four-year-old **Galya** is reported to have been seriously ill with acute double bronchial pneumonia for two weeks prior to her death, yet the administrators of the State-run home did not refer her to a hospital. Thirteen-year-old **Rosen Nanev** is also reported to have died of bronchial pneumonia at the Fakiya home for severely mentally handicapped children in Burgas oblast. Dangerously low levels of food and other provisions are reported to occur where children's homes are geographically isolated, such as at Dzhurkovo and Fakiya, or where the administrators of a home are insufficiently active in soliciting outside donations.

205. The Special Rapporteur is also concerned at the adoption in January 2000 of the Law on Drugs and Pharmacies, which is said to include a provision that allows drug experiments to be conducted on orphans if a court order for that purpose is obtained. While there is no evidence that any such court orders have yet been applied for, a case in which a psychologist conducted an experiment with a psychotropic drug on 15 children in the Maria Teresa orphanage in Stara Zagora in May 2000 highlighted the vulnerability of children in state orphanages to potentially dangerous exploitation. Three children were briefly hospitalized after taking "Rispolept", a drug intended to control aggression in schizophrenics. The 15 children, who were not known to be schizophrenic, were asked to fill out a questionnaire by the psychologist, who appeared to be conducting research on behalf of a professor of the medical faculty of Thrace University. Prosecutors are believed to have commenced an investigation.

206. By letter dated 23 October 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1996 and 1997 regarding which no reply had been received.

Burkina Faso

Urgent appeal

207. Le 17 avril 2000, le Rapporteur spécial a envoyé un appel urgent conjoint avec le Rapporteur spécial sur la liberté d'opinion et d'expression et le Président-Rapporteur du Groupe de travail sur la détention arbitraire en faveur de **Halidou Ouédraogo**, président du Collectif des organisations démocratiques de masse et de partis politiques, de l'Union interafricaine des droits

de l'homme (UIDH) et du Mouvement burkinabé des droits de l'homme et des peuples (MBDHP), **Tolé Sagnon**, vice-président du Collectif et secrétaire général de la Confédération générale des travailleurs du Burkina (CGT - B), **Norbert Tiendrébéogo**, membre du Collectif et leader d'un parti politique d'opposition, **Me Bénéwendé Sankara**, président de l'Union des jeunes avocats du Burkina, **Dr. Pierre Bidima et Etienne Traoré**, un professeur d'université, tous membres du Collectif. Halidou Ouédraogo, Tolé Sagnon Norbert, Tiendrébéogo et Bénéwendé Sankara auraient été arrêtés le 13 avril 2000 chez eux, alors que Pierre Bidima et Etienne Traoré auraient été arrêtés en compagnie de 33 autres personnes le 10 avril 2000 lors d'une réunion du MBDHP. Ces 33 personnes auraient été relâchées peu après. Les personnes mentionnées ci-dessus seraient actuellement détenues au secret à la Direction de la compagnie d'intervention rapide (DCIR) de la police où elles auraient eu le crâne rasé. Leurs arrestations s'inscriraient dans le cadre d'une répression accrue à l'encontre des membres du Collectif des organisations démocratiques de masse et de partis politiques, constitué en décembre 1998 à la suite de la mort présumée suspecte du journaliste Norbert Zongo et qui a pour but de lutter contre l'impunité et pour le respect des libertés fondamentales au Burkina Faso. D'autre part, ces arrestations seraient consécutives à une campagne de grève générale lancée par ce Collectif suite à la dispersion par la force d'une marche pacifique organisée le 8 avril 2000 à Ouagadougou, au cours de laquelle de nombreux manifestants auraient été arrêtés et certains, sérieusement blessés.

Burundi

208. By letter dated 8 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1999 regarding which no reply had been received.

Urgent appeals and replies received

209. Le 16 février 2000, le Rapporteur spécial a envoyé un appel urgent conjoint avec le Rapporteur spécial sur la situation des droits de l'homme au Burundi en faveur de personnes actuellement détenues à la Brigade spéciale de recherche (BSR) de Bujumbura, dont, en particulier, **Lévi Rukondo, Florent Nzeyimana, Elie Nhtahonicaye, Gabriel Karikuruba, Nestor Nikobagomba, Canésius Barakamfitiye, Eliazard Andyambona, André Bigirimana, André Bazirinyakamwe, Pascal Nyabenda** et **Etienne Bayampunde** qui seraient accusées d'avoir des liens avec les groupes armés d'opposition. Certains d'entre eux auraient été battus pendant leur détention. **Diomède Buyoya**, qui était détenu avec les personnes mentionnées ci-dessus, serait mort des suites des tortures qu'il aurait subies à la BSR.

210. Le 12 mai 2000, le Rapporteur spécial a envoyé un appel urgent conjoint avec le Rapporteur spécial sur la situation des droits de l'homme au Burundi et le Président-Rapporteur du Groupe de travail sur la détention arbitraire en faveur de **Salvatore Kararaye, Berchmans Bizimana, Gaspard Ndabigeze, Claude Hicuburundi, Innocent** et une femme, **Alphonsine Minani**, ainsi que plusieurs autres personnes qui auraient été arrêtées par les forces gouvernementales le 7 mai 2000 sur le "site de regroupés de Kavumu", commune de Kanyosha, province de Bujumbura rural. Les personnes citées ci-dessus auraient tenté d'empêcher des soldats de fouiller leurs maisons à la soi-disant recherche d'armes. Elles seraient détenues au secret à la BSR à Bujumbura. L'office du Haut-Commissariat aux droits de l'homme au Burundi a essayé de les rencontrer mais les autorités compétentes ont refusé l'accès aux détenus.

211. Le 18 mai 2000, le Rapporteur spécial a envoyé un appel urgent conjoint avec le Rapporteur spécial sur la situation des droits de l'homme au Burundi et le Président-Rapporteur du Groupe de travail sur la détention arbitraire en faveur de **Bigirimana**, qui ferait partie des personnes arrêtées lors des incidents du 7 mai 2000 au camp de Kavumu. Il aurait été détenu dans un premier temps au poste militaire de Cinkona où il aurait été violemment battu. **Albert Bucumi** aurait aussi été arrêté en compagnie d'un autre homme dans la commune de Kanyosha le 6 mai 2000. Tous deux auraient été accusés de collaboration avec des groupes d'opposition armés, apparemment en raison du fait que des militaires les auraient trouvés en dehors de leurs "camps de regroupés". Ils auraient eu les mains attachées dans le dos et auraient été frappés. Albert Bucumi serait toujours détenu.

Cameroon

212. By letter dated 6 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998 regarding which no reply had been received.

Urgent appeals

213. Le 21 janvier 2000, le Rapporteur spécial a envoyé un appel urgent conjoint avec le Président-Rapporteur du Groupe de travail sur la détention arbitraire en faveur d'un certain nombre de militants du Southern Cameroons National Council (SCNC), dont **Justice Frederick Ebong, Chief Ayamba** et **James Sam Sabum**, qui auraient été arrêtés les 8 et 9 janvier 2000 suite à des manifestations à Buea et Limbe, dans la Province du Sud-Ouest, pendant lesquelles les membres du SCNC auraient tenté d'hisser le drapeau antérieur à la disparition de l'État fédéral en 1972. Les trois personnes mentionnées ci-dessus auraient été transférées à Yaoundé. D'autres seraient encore détenues au secret dans les postes de gendarmerie de Buea et Limbe.

Follow-up to previously transmitted communications

214. Par une lettre datée du 10 août 2000, le gouvernement a répondu à un appel urgent envoyé le 2 juin 1999 (E/CN.4/2000/9, par. 172). Il dément toutes les allégations portées à l'encontre des unités antigangs de Maroua qui, après la visite du Rapporteur spécial, ont continué à assurer la sécurité de la ville. Les dénonciations faites par Me Abdoulaye Math ont résulté d'un malentendu local, entièrement dissipé par la suite. Conscient du rôle positif que Me Math joue comme défenseur des droits de l'homme dans la sensibilisation au respect des droits de l'homme dans une région sous-scolarisée, le Ministre d'État chargé de la défense l'a invité à plusieurs rencontres pour un échange de points de vue sur la manière dont il peut se rendre utile sans créer des incidents avec les forces de l'ordre et les autorités administratives et judiciaires. Un échange fructueux s'est depuis engagé.

215. Par une lettre datée du 10 août 2000, le gouvernement a fait savoir au Rapporteur spécial que Tchambou avait été détenu dans les locaux de la gendarmerie de Maroua dans le cadre d'une enquête judiciaire pour faux et usage de faux. L'enquête préliminaire étant presque achevée, il sera bientôt remis au parquet compétent. Son arrestation n'a rien à voir avec ses activités au sein du Mouvement pour la défense des droits de l'homme et des libertés.

216. Par une lettre datée du 10 août 2000, le gouvernement a transmis des informations sur des cas transmis par le Rapporteur spécial en septembre 1998.

217. Concernant un certain nombre de personnes interpellées en mars 1997 à Bamenda (E/CN.4/1999/61, par. 102), le gouvernement a indiqué que des violences contre des bâtiments et agents publics avaient éclaté dans la Province du Nord-Ouest fin mars 1997, entraînant en particulier la mort de trois gendarmes. Soixante-six personnes présumées coupables ont été interpellées et traduites devant le tribunal militaire de Yaoundé. À ce jour, 13 personnes d'entre eux ont été libérées avant jugement et trois sont décédées : Richard Ngawa en juillet 1997 des suites d'une amibiase intestinale, Patrick Yimbu en juin 1999 à l'hôpital Jamot des suites d'une insuffisance cardiaque et Laurence Fai en août 1998 à l'hôpital central de Yaoundé des suites d'une affection médicale. Malgré la gravité des faits qui leur sont reprochés, le gouvernement note que leurs conditions de détention sont similaires à celles des autres détenus ayant commis des actes similaires. Le 5 octobre 1999, le Tribunal militaire de Yaoundé a prononcé des peines allant de l'emprisonnement à vie (trois accusés) à l'acquittement au bénéfice du doute (trois accusés). Un appel a été interjeté devant la cour d'appel de Yaoundé. Le gouvernement souligne qu'il s'agit d'une affaire de droit commun et non d'un procès politique comme le laissent supposer certains milieux mal intentionnés.

218. Concernant les conditions de détention, le gouvernement donne des précisions similaires à celle de sa réplique au rapport de mission du Rapporteur spécial (voir ci-dessous).

219. Concernant Pius Njawe (ibid., par. 104), le gouvernement précise qu'il a été condamné par le tribunal de première instance de Douala en janvier 1998 pour une infraction de droit commun, à savoir propagation de fausses nouvelles. Confirmée en appel, sa peine fut réduite en cassation, avant qu'il ne bénéficie d'une grâce présidentielle. La Cour suprême a par ailleurs rejeté son pourvoi. Le gouvernement dément toute allégation de mauvais traitements et indique qu'il a bénéficié de soins de santé prodigués par le docteur de la prison et son propre docteur.

Follow-up to the May 1999 fact-finding mission (see E/CN.4/2000/9/Add.2)

220. Par une lettre datée du 4 avril 2000, le gouvernement a transmis au Rapporteur spécial une réponse détaillée dont un résumé figure ci-dessous.

221. Concernant la mise en œuvre des dispositions légales réprimant les actes de torture, le gouvernement a cité en exemples des décisions de justice se référant à la torture physique, mais aussi à la torture morale, telle que la privation de nourriture et le refus de permettre à un détenu d'entrer en contact avec sa famille. De plus, le gouvernement a indiqué que des mesures de nature réglementaire avaient été prises en juin 1993 afin d'assurer le respect de ces dispositions par les forces de police et de gendarmerie. Ainsi, seuls les commissaires et officiers de police décident des gardes à vue, sous le contrôle du Procureur de la République; les responsables de commissariats doivent contrôler quotidiennement la situation des gardés à vue; les auteurs de tortures et autres mauvais traitements doivent faire l'objet de dossiers disciplinaires; tout élément identifié comme impulsif et violent devra être mis hors du rang afin de prévenir des bavures policières; et des contrôles par des hauts responsables doivent être effectués régulièrement dans les postes de police.

222. Concernant les conditions de détention dans les prisons, le gouvernement cite nombre d'articles du décret du 22 mars 1992 portant régime pénitentiaire qui s'inspire largement de l'Ensemble des règles minima pour le traitement des détenus. Des missions d'inspection sont régulièrement dépêchées dans les pénitenciers afin de s'assurer des conditions optimales de détention, notamment par le biais d'entretiens confidentiels avec les détenus. En vue de juguler le problème des longues détentions préventives, qui explique en partie le surpeuplement carcéral, le Ministère de la justice a entrepris un vaste programme de construction et de rénovation des palais de justice pour doter les principales villes de nombreuses salles d'audience et pour offrir au personnel judiciaire des meilleures conditions de travail. Ce programme vise à accélérer le règlement des procédures. Le chef de l'État a par ailleurs attiré l'attention des magistrats sur la nécessité d'accélérer les procédures judiciaires dans son message de fin d'année 1998 à la nation. Des transferts ont notamment eu lieu de manière à réduire le surpeuplement carcéral dans certaines prisons et quatre nouvelles prisons de grande capacité ont été créées aux termes d'un arrêté de juin 1992 (Meri, Tcholliré, Monatélé et Bazou). Un accord de coopération avec la France a été signé en juillet 1999 en faveur de la promotion des droits de l'homme, dont un volet porte sur l'amélioration des conditions de vie des détenus. Le gouvernement a aussi cité un certain nombre de sanctions, telles que 48 heures de garde supplémentaire, prises à l'encontre de gardiens de prison s'étant rendus coupables d'actes de violence sur des détenus.

223. Le gouvernement a informé le Rapporteur spécial que, après sa visite, les régisseurs de la prison centrale de New-Bell à Douala (ibid., par. 26 à 31) et de la prison principale à Bertoua ont été appelés à d'autres fonctions. Des sanctions ont été prises à l'encontre du gardien qui avait enchaîné des détenus dans une formation sanitaire à Bafoussam (ibid., par. 43) et contre le gardien qui avait ôté leurs vêtements à trois détenus à la prison centrale de Yaoundé (ibid., par. 36).

224. Concernant les chefs traditionnels (ibid., par. 44 et 45), le gouvernement a indiqué qu'ils étaient des auxiliaires de l'administration et servent à ce titre de courroies de transmission entre l'administration et les populations. Leurs fonctions découlent principalement de la coutume locale et leurs prérogatives varient d'une province à l'autre. Ils n'ont toutefois nulle part le pouvoir de priver quiconque de liberté. À chaque abus constaté, l'autorité administrative est intervenue énergiquement pour y mettre fin. Toutefois, certaines chefferies traditionnelles, en raison de leur éloignement par rapport aux centres urbains, disposent d'une organisation interne de lutte contre le grand banditisme, dont la mission se limite cependant à la maîtrise des personnes suspectes en vue de leur présentation aux autorités publiques. Le gouvernement note que l'Autorité administrative doit amener certains chefs traditionnels à comprendre l'évolution du contexte au regard de la loi.

225. Concernant la garde à vue administrative (ibid., par. 57), le gouvernement fait mention d'une circulaire de novembre 1997 précisant les modalités d'application de la garde à vue administrative régie par la loi de décembre 1990. Seuls les gouverneurs et préfets sont habilités à prendre de telles mesures, renouvelables une fois et exclusivement dans le cadre de la lutte contre le grand banditisme. Toute prolongation au-delà de ces délais requiert une autorisation préalable du gouverneur ou du ministre de l'administration territoriale, suivant le cas. La loi de décembre 1990 relative à l'état d'urgence prévoit aussi des mesures de garde à vue

administratives : sept jours non renouvelables sur ordre des préfets, 15 jours non renouvelables sur ordre des gouverneurs et deux mois renouvelables une fois sur ordre du Ministre de l'administration territoriale.

226. Concernant les détentions en garde à vue, des efforts sont entrepris afin d'améliorer les conditions de détention dans les cellules des brigades de gendarmerie. L'insuffisance des moyens financiers ne permet toutefois pas de généraliser ces travaux de réfection sur l'ensemble du territoire. Les registres de garde à vue judiciaire indiquent la date et l'heure d'entrée en cellule de tout détenu, ce qui permet au Procureur de la République et aux chefs hiérarchiques de contrôler à tout moment si les délais de garde à vue ont été scrupuleusement respectés. Des sanctions sont prises en cas de non-respect de ces délais. Le gouvernement note qu'à l'issue du déferrement d'un prévenu au parquet, ce dernier est retourné par le Procureur de la République à la brigade de gendarmerie pour complément d'enquête. Des inspections sont régulièrement effectuées par tous les chefs hiérarchiques et l'inspection générale.

227. Concernant les gendarmes, la déontologie n'autorise l'usage de la force ou des armes que dans des cas précis définis par la loi. En cas d'abus, des sanctions disciplinaires, pouvant aller jusqu'à la révocation, sont prises. Il s'agit toutefois de noter qu'avec l'avènement de la démocratie, beaucoup de citoyens ont pensé pouvoir tout se permettre, mettant ainsi en péril la survie même de l'État et la sécurité des autres citoyens. Les forces de l'ordre, en nombre limité, se sont parfois retrouvées débordées face à des situations de troubles généralisés. Selon le gouvernement, c'est dans ce cadre qu'il faut placer les événements mentionnés par le Rapporteur spécial relatifs aux opérations villes mortes ou aux périodes précédant ou suivant des élections (ibid., par. 46). Grâce à une sensibilisation continuelle, des causeries morales et des notes de service du haut commandement, les violences reprochées jusqu'ici aux gendarmes sont en voie de disparition progressive.

228. Concernant le groupement polyvalent d'intervention de la gendarmerie (GPIG), appelé communément les antigangs de Maroua (ibid., par. 21 à 23), le gouvernement note que, bien qu'il s'agisse d'une réserve ministérielle, ses éléments restent soumis aux lois de la République et que tous les cas d'atteinte à l'intégrité physique portés à la connaissance du commandement font l'objet d'une enquête et leurs auteurs sont traduits devant les tribunaux compétents. Courant 1999, certains éléments ont ainsi été sanctionnés pour exactions à l'endroit des populations (sanctions disciplinaires assorties de déferrements devant les tribunaux). Le gouvernement reconnaît l'existence de nombreux accrochages de type militaire avec les coupeurs de routes, des hommes fortement armés. Les prétendues exécutions sommaires mises à l'actif du GPIG sont à analyser dans ce cadre. Des enquêtes minutieuses sur les personnes prétendues avoir été exécutées sommairement ont permis d'établir qu'il s'agit en fait de coupeurs de routes morts sur le champ de bataille. Le gouvernement reconnaît l'erreur du Colonel Pom d'avoir refusé la visite de ses locaux de service au Rapporteur spécial. Le Colonel justifie cet incident par le retard qu'ont mis les instructions de la haute hiérarchie à lui parvenir. Le gouvernement estime qu'il s'agit d'une affaire de personne, qui ne devrait nullement déteindre sur les actions de cette unité, qui demeurent largement positives et appréciées par les populations du Nord. Le commandement a prescrit l'ouverture d'enquêtes pour tous les cas dénoncés par le Rapporteur spécial.

229. Finalement, le gouvernement note qu'il semble exagéré de conclure à la pratique systématique de la torture, à la généralisation de l'impunité dans les établissements pénitentiaires et à la complicité du pouvoir en place. Il prendra toutefois des mesures pour donner suite aux recommandations et observations du Rapporteur spécial. La création en 1998 d'un comité de suivi de la mise en application des instruments juridiques internationaux relatifs au droits de l'homme permettra de faire des propositions constructives dans la perspective des réformes et améliorations dans les domaines soulevés.

230. Par une lettre datée du 17 août 2000, le gouvernement a en outre transmis au Rapporteur spécial un mémorandum sur les droits de l'homme au Cameroun, daté de novembre 1999, rédigé par les services de la primature, qui détaille les mesures prises par le gouvernement pour faire de la protection des droits de l'homme un des axes majeurs du développement durable. Concernant le mandat du Rapporteur spécial, le mémorandum fait mention des peines très sévères prononcées par les tribunaux civils et militaires à l'encontre des personnes s'étant rendues coupables d'actes de torture. Un certain nombre d'affaires sont ainsi citées en exemple. Concernant le système carcéral, il est indiqué que la plupart des prisons sont aujourd'hui vétustes, exiguës et dans un état de délabrement avancé. Malgré une grave crise économique, le gouvernement s'est toutefois engagé dans un effort à moyen et long terme visant à améliorer les structures d'accueil et à humaniser les conditions de vie des détenus. Les peines corporelles et les sanctions disciplinaires cruelles, inhumaines ou dégradantes sont interdites, et les instruments de contrainte ne sont jamais utilisés comme sanction. La procédure disciplinaire est de type contradictoire, donnant ainsi la possibilité au détenu de se défendre. Les différentes catégories de détenus sont strictement séparées, même si le gouvernement note que le manque de moyens financiers ne permet pas toujours de telles séparations dans toutes les prisons. Depuis 1992, des activités socioculturelles et éducatives visant à la réinsertion sont entreprises. Des efforts financiers importants seront nécessaires à la complète réhabilitation des structures pénitentiaires.

Observations

231. The Special Rapporteur appreciates the letter of 4 April 2000 from the Government responding to the report on his 1999 visit to Cameroon (E/CN.4/2000/9/Add.2). He notes that the Government challenges his finding that torture is practised on a widespread and systematic basis; in particular, it finds the word "systematic" exaggerated. The Special Rapporteur deems it important to clarify, as he omitted to do in the report on the visit, the understanding he has of the word. It is the same as that of the Committee against Torture, namely: "The Committee considers that torture is practised systematically when it is apparent that torture cases reported have not occurred fortuitously in a particular place or at a particular time, but are seen to be habitual, widespread and deliberate in at least a considerable part of the territory of the country in question. Torture may in fact be of a systematic character without resulting from the direct intention of a Government. It may be the consequence of factors which the Government has difficulty in controlling, and its existence may indicate a discrepancy between policy as determined by the central Government and its implementation by the local administration. Inadequate legislation which in practice allows room for the use of torture may also add to the systematic nature of this practice" (A/48/44/Add.1, para. 39). So understood, the use of the term is simply an accurate reflection of what the Special Rapporteur found.

232. The Special Rapporteur had a meeting with the Minister of State for Foreign Affairs during the fifty-sixth session of the Commission at which the Minister confirmed what the Permanent Representative of Cameroon had said to the Commission, namely that the Government would take measures by way of follow-up to the recommendations contained in the report on the Special Rapporteur's visit (E/CN.4/2000/9/Add.2, para. 78). The Special Rapporteur notes that the Committee against Torture, reviewing in November 2000 the report of Cameroon under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, shared the Special Rapporteur's concerns about the widespread nature of the practice of torture and made numerous recommendations consistent with those made by the Special Rapporteur in the report on his visit. Accordingly, he concludes that no measures of implementation of these recommendations had been undertaken as of late November 2000. The Special Rapporteur considers that, until the recommendations are given effect to, there is no realistic prospect of achieving any substantial improvement in the grave incidence of torture prevalent in Cameroon.

Chad

233. By letter dated 8 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1997 and 1999 regarding which no reply had been received.

Chile

234. Con fecha 10 de octubre de 2000, el Relator Especial notificó al Gobierno que había recibido información según la cual la lonko (jefa local) mapuche, **Juana Calfunao Paillalef**, habría presentado una querella criminal contra Carabineros. El 12 de mayo de 2000, en la Terminal de Buses Rurales de Temuco, habría sido detenida y conducida a la Segunda Comisaría de Carabineros de Temuco, donde habría sido brutalmente golpeada, amenazada e insultada racialmente. Según la fuente, Juana Calfunao Paillalef y su familia habrían sufrido continuas acciones intimidatorias y de amedrentamiento por parte de la policía y de la Brigada Especial de Inteligencia que operarían en el territorio ancestral de los mapuches.

Observations

235. The Special Rapporteur is pleased to have the opportunity to comment on the information supplied by the Government in previous years (E/CN.4/2000/9/Add.1, paras. 2-19) in relation to follow-up to the recommendations contained in the report on his 1995 visit to Chile (E/CN.4/1996/35/Add.2). He welcomes changes made in the Code of Criminal Procedure and Penal Code, which are consistent with several of his recommendations. He also notes positive developments in the case law of the Supreme Court making breaches in the general pattern of impunity for criminal violations of human rights during the period of the military government, together with information on some criminal investigations and prosecutions that had been initiated. Finally, he appreciates statistics in respect of disciplinary proceedings taken against officers of the police and Gendarmerie, as well as more limited information that the Director of Carabineros was able to supply. He remains of the view that the continued applicability, at least in the first instance, of the military justice system to criminal acts committed by carabineros is unjustifiable, an impediment to speedy justice and redress for human rights violations such as torture and an anachronism incompatible with democratic norms and full respect for the rule of

law. In this connection he agrees with the recommendation of the Human Rights Committee (CCPR/C/79/Add.104 of 30 March 1999, para. 9) that the law should be amended so as to restrict the jurisdiction of the military courts to trial only of military personnel charged with offences of an exclusively military nature.

236. He fully supports, in particular, the following recommendations of the Human Rights Committee directly relevant to his mandate:

> That there be established an independent body with authority to receive and investigate all complaints of excessive use of force by the police and other security forces;
>
> While noting improvement as a result of recent legislative reforms, that the law be reconsidered with a view to eliminating incommunicado detention altogether; this applies, in the Special Rapporteur's view, whether or not such detention is ordered by a judge;
>
> That there be established "institutionalized" mechanisms for monitoring conditions in prison and for investigating complaints by inmates; such mechanisms should, in the view of the Special Rapporteur, include a substantiate component from civil society, including human rights non-governmental organizations.

China

237. By letter dated 10 August 2000, the Special Rapporteur advised the Government that he continued to receive information according to which the use of torture and other forms of ill-treatment, in particular in Tibet and in the Xinjiang Uighur Autonomous Region (XUAR) is widespread. In addition to methods reported in previous years, the Special Rapporteur has transmitted information on the use of trained dogs to attack prisoners; the use of live electric wires to give electric shocks, inter alia, to the mouth and genitals; the insertion of sticks or needles under the nails or having fingernails pulled out with pliers; the hanging of prisoners from a rail with one foot and one hand for 24 hours; the shoving of paper into the anus of detained persons and the setting on fire of this paper. The Special Rapporteur has transmitted further information on prisoners being made to run in the "flying aeroplane" position, arms spread out and bent forward; having their hands tied behind their back and having them pulled up behind them, causing intense pain; and on prisoners being made to stand barefoot in the snow and having cold water poured over them in freezing winter temperatures.

238. Furthermore, the Special Rapporteur advised the Government that he had received information on the methods of torture specifically used in the XUAR, namely the use of injections which cause victims to become mentally unbalanced or to lose the ability to speak coherently; the insertion of pepper, chilli powder or other substances in the mouth, nose or genital organs; and the insertion of horse hair or wires into the penis. The torture of prisoners is said to be common in prisons, detention centres and labour camps, such as the Liu Daowan jail in Urumqi and a labour camp near Kashgar. Torture methods reported from the labour camp include prisoners being hit on the head, stomach or genitals with electric batons; having electric

batons inserted into the anus; having their hands stepped on; being strapped to a pole or hung from the ceiling and being beaten. They are reportedly applied when prisoners fail to go to bed or get up on time, cry or laugh, protest or answer back or fail to finish their tasks. It is reported that they are used particularly against Uighurs who are politically active or suspected of political activities. The Special Rapporteur transmitted information describing the use in the XUAR of metal helmets which are placed over the eyes of prisoners subjected to torture in order to prevent them from committing suicide. Finally, it is reported that 90 per cent of defendants who appear in court tell the judges that they have been subjected to torture in police custody to extract confessions. These statements are said to be ignored by the judges and the procuracy rarely ask to investigate these allegations.

239. In particular, the Special Rapporteur transmitted to the Government information concerning the following individual cases in the XUAR.

240. **Obulkasim Yusuf** had reportedly been arrested on 17 July 1992 by the Kucha county Public Security Bureau, and moved to Liu Daowan jail in Urumqi. He was reportedly tried in Urumqi in June 1993 for alleged involvement in subversive activities and sentenced to death by the Urumqi city Intermediate People's Court. On the evening of 17 March 1994, Chinese police officers and high officials reportedly squeezed his fingers with pliers, pressed something into his neck, pushed needles under his nails, kicked his testicles and kidneys and stuck a prong up his penis. The next morning, armed Chinese cadres and police officers are said to have come to his cell and ordered Obulkasim to stand up. The other prisoners in the cell are said to have surrounded him to protect him and four persons were reportedly killed by automatic guns and handguns. When Obulkasim's body was prepared for burial on 7 April, two bullet holes were reportedly found.

241. **Abdulshukur Abliz Haji**, the chairman of the Islamic Society in Gulja city, who was reportedly arrested in March 1997 and held in Urumqi, was allegedly tortured in detention. He was reportedly given injections. He was said to have been released a few months later in poor health but was allegedly re-arrested in early 1998 when he went to Beijing to seek medical treatment. He is now said to be detained in Urumqi.

242. **Abidjan Obulkasim**, a student who was reportedly tried on political charges in Kashgar in mid-1995, was said to have been taken to a "public sentencing rally" in a square near Aitgar Mosque in Kashgar together with his three co-defendants in September 1995. The accused reportedly had their hands tied and placards placed around their necks. They were said to have been escorted by soldiers. Abidjan Obulkasim reportedly shouted "down with the Chinese Communist Party, long live the minorities!". A soldier was subsequently believed to have forced him to kneel down and to have banged his head several times forcefully on the ground.

243. **Obul Kasem Imin**, from Dol village in Lop county near Khotan, was reportedly arrested by public security officers in September 1996 for "speaking out against the Government". In detention, he was reportedly kneed and kicked in his genitals. As a result, one of his testicles had to be removed in hospital. He was said to have been subsequently released and placed under house arrest.

244. **Salam Kari**, from Gulja (Yining), was reportedly arrested in May 1997 in connection with protests in Gulja in February 1997. His dead body showing marks of torture was reportedly returned to his family a few days after his arrest.

245. **Nizamidin Yusayin**, a 70-year-old scholar from Urumqi and former journalist for the newspaper Xinjiang Daily, is believed to have been arrested on or after September 1997 on suspicion that he had sheltered people wanted in connection with the February 1997 protests in Gulja. He was said to have been detained incommunicado in the Urumqi City Public Security Bureau. On 7 April 1998, he reportedly died allegedly as a result of being beaten and tortured by the police in order to force him to make a confession.

246. The Special Rapporteur advised the Government that he had received information according to which the authorities have been conducting a major crackdown on the movements of the Falun Gong, Falun Dafa and other Qi Gong groups. Practitioners are said to be put under pressure to renounce their beliefs. Reports have been received that practitioners have been subjected to public humiliation for their membership in the Falun Gong movement. Tens of thousands of practitioners have reportedly been detained by the police for varying periods of time. Many of them are said to have been sent to labour camps without charge or trial for periods of up to three years for "re-education through labour", or detained in psychiatric hospitals, where they were often administered drugs against their will, for periods of up to several weeks. Many of them are said to have suffered torture or ill-treatment. The Special Rapporteur has transmitted information on the following individual cases.

247. **Xian Jin-ying**, from Haiyan county, Zhejiang Province, and three other practitioners reportedly went to Tiananmen Square on 25 October 1999. They were allegedly sent to a nearby police station where between 50 to 60 practitioners were said to have been held. The police reportedly handcuffed about 12 practitioners in a very painful manner with one arm bending over the shoulder to meet the other hand on the back. The police subsequently made them kneel on the ground and hit their heads against the wall. Xian Jin-ying's arm allegedly broke under the pressure. On 26 October, a doctor refused to examine her arm because of her Falun Gong membership. On 27 October, she was taken to hospital.

248. **Liu Juhua**, from Tangshan city, Hebei Province, and **Yang Xuezhen**, were reportedly arrested in Beijing on 22 September 1999 after resisting a police officer who allegedly attempted to take Falun Gong books away from them. They were reportedly taken to Beijing Qinghe detention centre where they were allegedly interrogated, deprived of sleep, had their arms tied to their feet behind their backs and to have been burnt with cigarettes on their hands. They were reportedly transferred to Kaiping detention centre in Tangshan city. Another practitioner detained at the same time at the Kaiping detention centre had reportedly been tortured with electric shock batons and beaten with a large club.

249. **Zhang XiaoHong**, from Da Lian city, was reportedly arrested on 30 August 1999. She was said to have been detained for 15 days in the detention centre in Dalian. On 9 September, she reportedly asked the prison authorities for permission to do her exercises but was refused. On the same evening, she was allegedly chained together with another Falun Dafa practitioner, back to back. They reportedly had to sit on the wooden floor, were prevented from sleeping and from using the toilet and were deprived of food. On 10 September, the two practitioners were

reportedly placed in single cuffs which chained their hands to their back and got further tightened as a result of movement, preventing them from sleeping. On 14 September, the cuffs were removed. They were released the next day.

250. **Yin XinQin**, from Da Lian city, was reportedly arrested on 30 August 1999 and placed in the Dalian detention centre. On 8 September 2000, she was reportedly chained to a fence for a total of 21 hours. On 9 September, she was said to have been chained with another practitioner back to back until the next day. On 10 September, they were chained separately with their hands behind their backs until the morning of 14 September, when they were asked to work. On the evening of the same day, they were allegedly again chained with their hands on their back. On 15 September, they were said to have been released.

251. **Xin XiuJuan**, from Da Lian city, was reportedly arrested on 30 August 1999 and detained in the Dalian detention centre. She was allegedly chained to the grill of the window in the jail room. On 8 September, she reportedly had rusty iron frames fixed to her feet (a method of torture known as the "under-earth jail"). She was then reportedly ordered to walk fast, which resulted in the iron frames cutting her feet. She was reportedly kept without food for six days.

252. **Zhu Hang**, an Associate Professor of the Department of Humanity and Social Sciences of the Dalian University of Science and Engineering in Dalian city, was reportedly arrested on 30 August 1999 when she was practising Falun Gong exercises in a park and subsequently detained in the Dalian Yao Jia detention centre in Nan Guan Ling. There she was reportedly tied to the Di Lao device (literally translated as "prison in hell" device) by which her hands and feet were reportedly chained to a heavy steel frame 20 inches high and 15 inches wide. She reportedly went on hunger strike. After seven days, the authorities reportedly ordered several guards to force feed her and caused severe injury on her mouth. They are said to have installed a pipe to feed liquid to her. She is believed to have lost consciousness because of the treatment she was subjected to and was sent to the People's No. 2 Hospital in Dalian city to recover. She was reportedly later sent to a mental hospital by the Chinese authorities for revealing her experiences in detention.

253. **Zhang ChunQing** was reportedly arrested on 3 September 2000 with her granddaughter and was subsequently reportedly detained for 15 days in the Dalian Nanguan Yaojia detention centre. On 5 September, she is said to have been insulted and slapped hard on her face and hands with a ring-binder by the section chief for practising Falun Gong in prison. She was allegedly subjected to the Di Lao device. She was allegedly ordered to walk 200 feet to her cell, which she could only do one inch at a time and which took over 40 minutes, and not permitted to have it taken off to use the sanitary facilities. On 9 September, she was again insulted and placed in the Di Lao device with three other practitioners. Thirty-six other practitioners were reportedly handcuffed with self-tightening handcuffs to window rails in the prison hallway. They are said not to have been allowed to use the toilet or move their legs. On 10 September, about 30 practitioners allegedly recited together and were reportedly beaten, inter alia on their face and mouth, by five or six guards as well as by prisoners wanting to shorten their prison terms. In the evening of 10 September, they were reportedly handcuffed in twos, back-to-back, and were not allowed to move or talk. In the evening of 11 September, the handcuffs were removed. They were said to have caused blisters, swollen hands and scars.

254. **Shuzhen Lu**, the 71-year-old mother of Hingzhi Li, the founder of the Falun Gong movement, has reportedly been kept under house arrest in a suburb of Beijing since 22 July 2000. She is said to be suffering from a heart problem, which reportedly has worsened since her house arrest, leading to a diminution of her vision and a swelling of her legs, restricting her from moving around. The police reportedly refused to offer her medical treatment or to provide her with sufficient food and water.

255. **Xu Yanzhong**, from Jiaozhou city, Shandong Province was reportedly sent on 25 April 2000 to the mental hospital of Jiaozhou city for practising Falun Gong. He was said to have been tied up and forced to take medicine and have injections in the 10 days that followed. He allegedly suffered physical and mental mistreatment. As a result of the injections, he reportedly suffered weakness all over his body, difficulty in opening his eyes, nervousness and depression.

256. **Kuang Bencui**, from Jiaozhou city, Shandong Province, reportedly went to Beijing. On her way to Tiananmen Square, she was reportedly arrested and sent to the Jiaozhou Liaison Office in Beijing. Then, she was sent to the mental hospital of Jiaozhou city. During her time in the mental hospital, she was reportedly forced to take medicine and have injections. When she refused, two men allegedly seized her arms, pinched her nose and drove a chopstick between her teeth to force-feed her with medicine. She was reportedly force-fed three times a day, the dosage being increased from one tablet at a time to six tablets at a time.

257. **Tan Guihua**,was reportedly arrested by officers from her work unit and the Politics and Law Commission in her home on 12 September 1999 and taken to the mental hospital. There, she was given an injection. As a result, she reportedly felt faint and sick and her heart beat accelerated rapidly. She allegedly lost consciousness. She received electric shocks on seven occasions. After an injection, her periods reportedly stopped, she could not move her eyes and had slowed-down reactions. A few days later, another medicine was said to have been added to the injection. As a result, Tan Guihua's body shook violently. This was said to have lasted 20 days. At the time of her release, she reportedly suffered from memory loss, she had problems speaking, her eyes were dull and her reactions had slowed down.

258. **Huang Jinchun**, a civil court judge at the Beihai Intermediate People's Court in southern Guangxi Autonomous Region was reportedly arrested at his home on 15 November 1999 and detained at the Long Qianshan mental hospital in the city of Liuzhou, Guangxi Province. There he is said to have been prevented from seeing his family for three months and to have been injected with tranquilizers after he continued to practise Falun Gong meditation at the institution.

259. **Wang Fenglan** from Yujia village in Shiduitou, **Ma Yufeng** from Xiaojiajia, **Zhan Keyun, Wang Haohong**, from Heya village, and **Zhao Jinhua,** a resident of Zhaoyuan city in Shandong Province, were reportedly arrested on 27 September 1999 by the Zhangxing County police. They were said to have been detained in the local police station, where they were allegedly subjected to ill-treatment by police officers for refusing to read a book that denounced Falun Gong. On 1 October 1999, while the practitioners were reportedly doing the Falun Gong exercises, a number of police officers entered the cell and violently kicked and punched them

and beat them with rubber clubs. They reportedly struck Wang Fenglan several times with a club, tied her up with a telephone cord and gave her electric shocks. As a result, she is said to have lost consciousness.

260. **Liu Jing**, a female Falun Gong practitioner from Jiangxi Province, was reportedly arrested on 22 December 1999 on Tiananmen Square for practising her exercises. She was reportedly taken to the Tiananmen Square police station and held until 24 December. During that time she is said to have been subjected to a full body search, interrogation and torture by the police. She reportedly sustained severe bruising on the back of her legs.

261. **Cheng Fengrong** and four other practitioners were reportedly arrested for attempting to audit the trial of four Falun Gong practitioners on 26 December 1999. They were allegedly detained in the Nihe detention centre of Shunyi county in Beijing. Cheng Fengrong was allegedly forced to stay in a half-squatting position and was punched and kicked whenever she could not maintain it. Police officers reportedly poured two basins of cold water on her back and neck. The cold water allegedly froze under her feet. She was further said to have been brutally beaten by police officers using a broom.

262. **Gao Yulan**, a female practitioner, was reportedly arrested at her home in Jiangsu Province at 5 a.m. on 31 December 1999 when she was practising Falun Gong. A policeman is said to have pulled her hair, slapped her face, kicked her and pushed her head under water. She was reportedly detained for 16 days.

263. **Chen Lingmei** was reportedly arrested on Tiananmen Square on 19 November 1999, and taken to the police station of Zhuozhou city, Hebei Province, where she was reportedly beaten during interrogation. She was allegedly subsequently sent to a training centre with three other practitioners, **Zang Cuiqing, Chang Hengchun,** and **Xing Junhua Zang,** to be "re-educated". There, they were reportedly subjected for several hours to electric shocks all over their bodies and to kicks and blows to their faces with a one-foot long wooden stick for refusing to write statements promising to renounce Falun Gong.

264. **Bai Lili** was reportedly arrested and sent to Dongcheng detention centre in Beijing on 25 October 1999. Police officers reportedly stripped her of her clothes. They are said to have pulled her arms and hair in order to confiscate books. The next day, they reportedly tied up her feet and arms and pushed her to the ground.

265. **Wang Wei**, **Hu Shuzhi** and **Ning Guiying,** three practitioners and contact persons from Anshan in Liaoning Province, were reportedly arrested at their homes on 24 September 1999 and detained in the Yuemingshan detention centre in Anshan city, Liaoning Province. They are said to have been hung to a heating pipe and to have been beaten for a whole night for declaring they would continue to practise Falun Dafa.

266. **Chen Yajun**, a **woman** from Ulumuqi, Xinjiang Uighur Autonomous Region, and **15 other practitioners,** from Jilin and Shaanxi Provinces, were reportedly arrested in an apartment in Beijing on 19 September 1999. They are said to have been detained by the ChaoYang branch of Beijing Public Security Bureau in the early morning of 20 September. Chen Yajun is said to have been handcuffed behind her back until 24 September. She was

reportedly forced to stand for 13 to 14 hours without any place to lean on and without access to toilet facilities. A prison official is said to have verbally and physically abused her. On 25 September, three policemen reportedly forced her to lie on the ground, tore her mouth open and inserted pipes from her nose into her stomach to force-feed her.

267. **Huang Xiuling** was reportedly arrested by policemen and taken to Tiananmen police station on 9 September 1999 and was allegedly transferred to Majuqiao police station and then to Qiaozhuang detention centre. An officer is said to have ordered prisoners to beat her in order to force her to hand in her books. The prisoners subsequently reportedly pulled her arms and legs, punched and kicked her and stripped her of her clothes. The next day, she was reportedly shocked with an electric club for practising Falun Gong. She was reportedly subsequently placed in handcuffs and shackles, and dragged to each cell, where she is said to have been shocked with an electric club as a warning to other prisoners.

268. **Sixty detained practitioners,** who had allegedly begun a hunger strike on 7 September 1999 which continued for about nine days, amongst them two women practitioners, **Zhang Xihong** and **Jin Gang,** were reportedly interrogated for between two and three hours every day, insulted and beaten by police officers in Qiliqu detention centre in Changping county, Beijing. On 10 September, a police officer reportedly forced them to stand under the burning sun for three hours. Zhang Xihong reportedly had been on strike for 10 days and was said to have been kept in chains locking her hands and feet together, so that her head almost touched the ground when she walked. About nine other practitioners were reportedly handcuffed for practising or being suspected of practising Falun Gong exercises in the detention centre. A number of policemen of the Pre-trial Department reportedly tortured the prisoners, using belts, iron wires and screwdrivers. They allegedly forced practitioners to bow 90 degrees with their hands elevated over their heads, until they were close to losing consciousness. Jin Gang was reportedly twice severely beaten on the seventh day of her hunger strike.

269. **Wang Yan** was reportedly arrested by the police in Shanhaiguan city on 22 July 1999. The next day, she was said to have been transferred to Jinzhou and finally detained in the Fuzhen police station in Liaoyuan city in Jilin Province. She was reportedly beaten and insulted for refusing to sign a statement promising to give up Falun Gong.

270. **Gu Zhiyou** from Chongqing Tax School, Sichuan Province, was reportedly arrested on 19 July 1999. In the jail, she is said to have been subjected to 24 types of ill-treatment, including the "tiger stool" (where the thighs are reportedly tied to a bench and the legs are bent into the opposite direction by adding bricks under the heels), piercing through fingers with sharp bamboo sticks, electric chair, and electric shocks to the head and anus.

271. **Zhang Xuefeng** and other practitioners, amongst them **Liu Xirong** and **Li Juhua** were reportedly arrested by two officials from Daqinjia town government, in Xiaozhuanshan village on 1 January 2000. They were said to have been beaten with sticks and clubs in the village office, and further at the county office.

272. **More than 300 Falun Gong practitioner**s, amongst them a woman whose surname was **Xu,** were reportedly detained in Balibao prison in Changchun city, Jilin Province, before 1 October 1999, for refusing to write so-called "confessing statements". They are said to

have been subjected to ill-treatment, such as being burnt by cigarettes and being beaten with big clubs to the extent that the clubs broke during the beating. Xu was reportedly handcuffed, hung up by a rope and beaten, which caused extensive injuries to her back.

273. **Jimmy Zhimin Zou**, a United States citizen was reportedly arrested on 1 December 1999 on Tiananmen Square in Beijing for being a Falun Gong practitioner and detained at Tiananmen Square police substation. There he was reportedly punched on his eyes, shoulder and arms and had his legs kicked by three police officers. He was said to have been subsequently handcuffed forcefully and to have been given electro-shocks to the waist with a stun baton. He was then reportedly sent to the Anhui Agency in Beijing, where he was reportedly detained in a room with about 30 other Falun Gong practitioners, where he was allegedly body-searched, and punched in the face, chest and stomach area by two police officers. One officer reportedly struck his feet with a baton. On the fourth day, he and two other practitioners were reportedly dragged out of their cell by seven officers for practising Falun Gong exercises. They were said to have been beaten and forced to stand facing the wall with their knees bent.

274. **Fourteen students** of Tsinghua University in Beijing were reportedly arrested by the police when they were attending a Falun Gong conference on the campus on 21 October 1999. They were said to have been handcuffed, beaten up and tortured.

275. **Hang Jizhen,** from Nanjing, Jiangsu Province, reportedly went to Beijing on 23 December 1999 to appeal to the central Government against the ban on the Falun Gong. In Tiananmen Square, she was reportedly arrested and beaten. Police officers are said to have escorted her back to Nanjing and to have detained her in Nanjing mental hospital ("Nanjing Hospital for Brain Diseases"). She was reportedly given injections and pills, which are said to have caused her to feel sick and extremely weak.

276. **Ding Jianhua**, the head of the Department of Health Care of the Public Security Bureau of Jiangsu Province, was reportedly sent to the Nanjing Brain Hospital on 3 October 1999 for refusing to give up her belief in Falun Gong. There she was said to have been subjected to forced treatments which reportedly slowed her reactions and blurred her eyesight.

277. **More than 20 practitioners**, among them teachers from the Laiyang School of Medicine, teachers from Laiyang Higher Education through Broadcasting and TV, doctors from the Laiyang central hospital, and a practitioner from Qingdao city, are said to be detained at the Yantai Mental Recovering Centre, located in Laiyang city in Shandong Province as of the end of February 2000. They were reportedly forced to take medicines and given injections. They were further said to have been required to pay expensive medical fees.

278. **Bai Lili**, **Xu Wei** (aged 4), **Wang Youqun** and **Wang Shuge**, four females, and **Yu Tian** (aged 5), **Zhao Qun**, **Li Hongshen**, **Luo Lijuan**, **Fei Menlin**, **Ju Linyan** and **other Falun Gong practitioners** reportedly gathered at Tiananmen Square in Beijing on 4 February 2000 to appeal to the Chinese central authorities in relation to the ban on Falun Gong. Lili Bai and Wang Shuge, who were holding up flags with the Falun Gong emblem were reportedly pushed to the ground and brutally beaten, especially on the face, by police officers attempting to seize the flags. They were reportedly subsequently arrested. Practitioners

holding banners were allegedly beaten by plain-clothes agents and uniformed police officers and taken to the Tiananmen Square police station. A family, including a 5-year-old child, Yu Tian, were arrested. The practitioners from Linyi, Shandong Province, Zhao Qun, Xu Wei, and Li Hongshen were reportedly beaten to the ground by six police officers and were subsequently taken to a police van. More than 100 practitioners who are said to have practised meditation sitting in the north-eastern corner of the square were reportedly frantically beaten. Women practitioners were allegedly dragged to police vans by their hair. **Dai**, a practitioner from Australia, was said to have been kicked in the back three times by a police officer and then arrested. **Zhen**, a practitioner from Linyi district of Shandong Province, was reportedly severely beaten and had blood on his face.

279. **Liu Wenjie**, **Wang Hongbin**, **Zhang Zhaodong**, and three women, **Li Qun**, **Qu Xiuhua** and **Liu Shuziang,** were amongst thousands of practitioners who reportedly petitioned the Governmental Appeal Bureau in Dalian city, Liaoning Province on 20 July 1999. Policemen reportedly started beating them, in particular young male practitioners. Li Qun was reportedly dragged by her hair and arrested along with nine other practitioners. In the police station, many practitioners were said to have been beaten.

280. **Six Falun Gong practitioners** who had reportedly been arrested for appealing to the central authorities in mid-1999 were reportedly paraded in the streets of Liqiaoxi village, Guangrao county, in Shangdong Province in order to dissuade other Falun Gong practitioners from going to Beijing. The so-called "parade" was reportedly led by five police cars and followed by a police truck hung with anti-Falun Gong banners. The practitioners, who were reportedly forced to wear large paper hats and only thin clothing in the cold temperature, allegedly stood on both sides of the truck.

281. **Fifteen Falun Gong practitioners** who had gone to Beijing to appeal for Falun Gong were reportedly forcibly marched barefoot through the crowded streets of Pengjia town in Shuangliu county, Sichuan Province, by the local police on 8 January 2000.

282. **Zhao Xin,** a lecturer of Beijing Industry and Commerce University, who was reportedly arrested on 19 June 2000 by police officers of the Haidian police substation when she practised Falun Gong exercises in the park. Several days later, her family is said to have received a "critically ill" notice about their daughter, detailing that the fourth, fifth and sixth vertebrae in her neck were fractured, that she had minor injuries to her head, that her left eye was bruised and swollen and that she had problems breathing. She was reportedly transferred to Haidian hospital in shackles and handcuffs. In hospital, she is said to be fed intravenously and to be supported on a respirator.

283. **Cheng Zhong** was reportedly approached in Menghe town of Wujin city, Jiangsu Province by a group of policemen and members of the Department of Civic Affairs on 25 September 1999 and taken to the "Centre for Mental Diseases", Hospital No 102 in Changzhou. He was reportedly threatened. On 28 September, he was reportedly taken by police officers to a mental hospital, the Third Hospital of Wujin city, where he was reportedly forcibly medicated and subjected to electric shocks five times by doctors or policemen. He was forcibly given medication for more than 10 days.

284. **Han Ji-zhen**, from Nan-jing City, reportedly went to Beijing to appeal to the authorities on 23 December 1999. She was said to have been arrested upon arrival by a police officer, who reportedly severely beat her. She was forcefully admitted to a mental hospital, the Nan-jing Brain Hospital, where she was said to have been forced to take injections and medication which reportedly made her feel nauseous and weak.

285. The following cases of deaths in custody of Falun Gong practitioners have been transmitted by the Special Rapporteur to the Government.

286. **Gao Xianming,** from Guangzhou in Guangdong Province, was reportedly arrested in Tianhe park in Guangzhou city on 31 December 1999. He was allegedly subsequently transferred to the Tangxia detention centre in Tianhe district. He reportedly died in police custody on 17 January 2000 as a result of having been force-fed with highly salted water while he was tied up and had his nose covered with a wet towel.

287. **Liu Xuguo** was reportedly arrested in October 1999 for protesting against the ban on Falun Gong. He was said to have been sentenced to three years of "re-education through labour" and sent in early February 2000 to a labour camp in Jining, Shandong Province. He is said to have started a hunger strike before 5 February and to have been taken to a hospital the following week, where he was reportedly brutally force-fed through a tube which severely injured his wind pipe and led to a lung infection, which is said to have caused his death in the labour camp on 11 February 2000.

288. **Wang Xiuying,** from Daowai district of Harbin city, reportedly went to Beijing on 12 May 2000 with another practitioner. She was reportedly arrested on 13 May 2000, and detained in the Jiaomen detention centre of Chongwen district in Beijing. While in detention, she made several requests to the detention centre to allow practitioners to continue practising Falun Gong and to unconditionally release all detained practitioners. They are said to have subsequently started a hunger strike. The guards ordered that these practitioners be forced-fed with high-density salt water. Wang Xiuying was reportedly forced-fed six times, five times with high-density salt water which caused severe dehydration and loss of consciousness. After delayed emergency treatment, she reportedly died in the evening of 22 May 2000.

289. **Chen Zixiu**, from Beiguan Xujia Xiaozhuang, Weicheng district, Weifang city was reportedly arrested at Weifang railway station on her way to Beijing to make an appeal to the authorities, taken to Chenguan Sub-district Office in Weicheng city and detained there for forced "re-education" purposes. In the morning of 21 February 2000, her body was reportedly transferred to the municipal hospital. Her body reportedly showed the following injuries: her mouth was reportedly bloody, her teeth were broken, she had a distended abdomen, her legs were swollen and covered in black and blue bruises from the hip down.

290. **Chen Ying**, from Jiamusi city, Heilongjiang Province was reportedly arrested at the beginning of August 1999. She was said to have been sent back to Heilongjiang Province under police escort. On the trip from Beijing to Heilongjiang Province, she was reportedly subjected to insults, beating and threats by the police. As a result, she is believed to have jumped out of the moving train and died.

291. The Special Rapporteur also transmitted information on the following individual cases in the Tibet Autonomous Region (TAR).

292. **Legshe Tsoglam**, a monk, was reportedly detained at Gutsa detention centre in early April 1999 after failing to cooperate with a Patriotic Education campaign at Nalanda monastery. He was allegedly severely beaten when he was taken into detention, became "ill and weak", and died on 12 April, only days after his release from the detention centre.

293. **Ngawang Jinpa**, a monk from Ganden monastery, is said to have died on 20 May 1999 as a result of ill-treatment in detention. He had reportedly been released from TAR Prison Number One on 16 March 1999, where he had been serving a four-year sentence. He was reportedly in poor health following his release and, the day after his release, doctors visited his home to extract some spinal fluid, a test which is reportedly, among other things, used to detect inter-cranial pressure resulting from severe beatings.

294. **Gyaye Phuntsog**, a senior scholar from Hainan county, was allegedly sentenced to six years' imprisonment and subsequently released on medical parole after being ill-treated during interrogation. During interrogation, he was reportedly deprived of food and sleep for several days and was made to stand for long periods. As a result, his legs were said to have been swollen and he was reportedly unable to walk without crutches after his release.

295. **Lobsang Tenzin** who is said to be serving a life sentence at TAR Prison Number Two, is reportedly in a very poor state of health. He is said to be unable to stand upright or to carry out prison duties. The deterioration in his health is said to be due to torture he was allegedly subjected to, poor prison conditions and lack of medical attention. Lobsang Tenzin was charged as the principle culprit in the killing of a People's Armed Police officer in Lhasa in 1988.

296. **Sonam Rinchen,** who was allegedly imprisoned in 1992 for unfurling a Tibetan national flag and shouting pro-independence slogans, reportedly died in January 1999 while serving a 15-year prison sentence in TAR Prison Number One. His death is believed to have been the result of ill-treatment in prison.

297. **Wang Li Gong**, **Yang Jing Fu**, both pastors, and **19 Christians** from Inner Mongolia were reportedly arrested on 23 November 1999 after gathering in Wang Li Gong's home in Han Ku, Tianjing. The police are said to have surrounded the meeting and to have arrested Yang Jung Fu and 19 Christians. When Wang Li Gong reportedly inquired at the local police station concerning the arrests, he was allegedly himself arrested. Two of the Inner Mongolians are said to have been released after 15 days, three after 10 days and the rest after 5 days under arrest. All but one of the detainees were reportedly threatened, humiliated and beaten by the police. The beating is said to have caused considerable swelling and haematomas on their faces and bodies. Wang Jing Fu and Wang Li Gong were reportedly accused of being cult leaders, of conducting illegal meetings, of bringing in believers of other Provinces and of being in contact with foreigners, and were said to have been given administrative sentences in a labour education camp.

298. The Special Rapporteur also transmitted information, according to which a campaign against the unregistered church in Guangdong Province, in south-eastern China, had been initiated in October 1999, which is said to be typified by arrests, beatings, detention, forced labour, raids, confiscation of property and heavy fines. The campaign has allegedly primarily focused on Pastor **Li Dexian**, who is said to have been arrested 15 times between October 1999 and May 2000. In May, he was reportedly tortured and held in chains with his wrists tied to his ankles for five days, causing severe pain.

299. The Special Rapporteur received information on the following death in custody. **Zhao Dong**, from Jixi city in Heilongjiang Province, who had been accompanied by police officers, reportedly died from his injuries after jumping from a moving train. He had reportedly been tortured by police and was in handcuffs at the time of the fall.

300. Finally the Special Rapporteur reminded the Government of a number of cases transmitted in 1998 and 1999 regarding which no reply had been received.

Urgent appeals and replies received

301. On 12 May 2000, the Special Rapporteur sent an urgent appeal on behalf of **Xu Wenli**, who was reportedly in need of urgent medical attention. He had reportedly been detained on 30 November 1998 and sentenced on 21 December 1998 to 13 years' imprisonment. He was reportedly detained at Beijing Yangqingxian Labour Camp. The Chinese authorities are reportedly denying him medication obtained by his wife for hepatitis.

302. By letter dated 21 November 2000, the Government replied that Xu Wenli had conspired to establish an illegal organization in an attempt to subvert the State power and had received financial aid from foreign organizations. On 21 December 1998, the First Intermediate People's Court of Beijing found him guilty of crimes of subversion, and punished him to 13 years' imprisonment and three years' deprivation of political rights. Upon being questioned by his lawyer, he indicated that he would not appeal the sentence. The hearing was attended, upon the showing of their identity cards, by his wife and 22 other people. When the indictment was read to him, he stated that he would not accept a court-appointed lawyer. The court appointed a lawyer to defend him at the first hearing. After meeting him, Xu Wenli accepted him as his defence counsel. His trial by the judicial department was conducted in strict accordance with legal procedure, and the trial was open, just, lawful and punishment was meted out on a strict legal basis for his criminal activities in violation of Chinese law. Since having been diagnosed as a hepatitis B virus carrier, he has been taking medication as directed by his physician. An examination conducted at the prison in August 2000 indicated that his condition was back to normal. He said that he was feeling very well. He has never suffered from hepatitis A. Article 54 of the Prison Law provides for medical services for detainees. Medical care for detainees should be included in sanitation and epidemic prevention plans of the area in which the prisons are located. All prisons have their own medical services for the treatment of sick convicts. There is a general hospital under the prison administration of every province, autonomous region and municipality directly under the central Government. Convicts suffering from serious diseases which are difficult for prison hospitals to manage are sent to prison general hospitals or better-equipped local hospitals, or are released on bail for medical treatment.

303. On 18 May 2000, the Special Rapporteur sent an urgent appeal on behalf of Pastor **Li Dexian**, a protestant pastor in Huadu who for the previous seven months had been arrested and detained for 24 hours every two weeks (on Tuesday mornings). On 11 April 2000, he was reportedly arrested and detained for 15 days, during which time his legs were allegedly shackled with cuffs placed around his ankles; a second pair of cuffs connected with each other with a bar was allegedly placed above the first pair; finally, his wrists were allegedly shackled and then pulled down and attached to the bar connecting the leg cuffs. He is reported to have stayed in that position for five days. No toilet facilities were reportedly available. The cuffs on his hands were allegedly so tight that the blood circulation was cut off and his left hand is said to have started to turn black. He was again arrested on 9 May 2000 and was reportedly released after 24 hours.

304. On 22 June 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions on behalf of **Jelil Turdi** (also known as **Zhalil Turdi**), an ethnic Uighur from Artush in the Xinjiang Uighur Autonomous Region (XUAR) who had lived in Kyrgyzstan over the past three years and was married to a Kyrgyz citizen. He was reportedly first detained by Kyrgyz police in early March 2000, reportedly for having an illegal residence permit. He was reportedly re-arrested a few weeks later by the Kyrgyz authorities, who had allegedly been told by the Chinese embassy in Kyrgyzstan that his Chinese identity documents were false. Chinese security officers had reportedly told the Kyrgyz authorities that Jelil Turdi was wanted in China for involvement in a nationalist opposition group. The Chinese officers reportedly took part in his interrogation, during which he is said to have been subjected to torture. Jelil Turdi was reportedly taken back to China at the end of April by Chinese security officers sent to Kyrgyzstan without having had the opportunity to challenge in court the decision to deport him.

305. On 7 July 2000, the Special Rapporteur sent an urgent appeal on behalf of **Rebiya Kadeer**, a Uighur business woman, sentenced to eight years in prison for "providing secret information to foreigners" by the Urumqi City Intermediate People's Court on 9 March 2000. Her health is believed to have deteriorated severely, partly as a result of ill-treatment in prison, and she is said to be in urgent need of medical attention.

306. On 12 July 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions on behalf of **Zhuo Xiaojun**, who had reportedly been sentenced to death after being convicted of "intentional killing" by Fuzhou City Intermediate People's Court. It is believed that his confession was extracted under torture. He was allegedly suspended from handcuffs attached to the bars of a door with his feet locked in 50 kg shackles, and was kicked, beaten and attacked with electric batons whenever he refused to confess to the crime.

307. By letter dated 21 November 2000, the Government responded to this urgent appeal. At the time of writing, the translation of this report was not available to the Special Rapporteur.

308. On 29 August 2000, the Special Rapporteur sent an urgent appeal on behalf of **Ngawang Choephel**, a Tibetan musicologist serving an 18-year prison sentence, on behalf of whom the Special Rapporteur had intervened on 1 July 1999 (E/CN.4/2000/9, para. 228),

to which the Government had responded by letter dated 15 December 1999 (ibid., para. 229). The Special Rapporteur transmitted further information on the current state of Ngawang Choephel's health. He was said to be suffering from a urinary tract infection, as well as liver, stomach and lung disorders. He is reportedly extremely malnourished and his skin is jaundiced.

309. By letter dated 21 November 2000, the Government responded that Ngawang Choephel was serving his sentence in the Bomi prison in the Tibet Autonomous Region, where he was in good health. The judicial department concerned made arrangements in August 2000 for his mother and uncle to come to China to visit him. The allegation of lack of medical treatment and food was groundless. All convicts enjoy free medical care, regular physical examination every year and timely medical treatment.

Follow-up to previously transmitted cases

310. By letter dated 16 May 2000, the Government responded to an urgent appeal sent by the Special Rapporteur on 5 November 1999 (E/CN.4/2000/9, para. 236). It indicated that inquiries revealed that there were no such lamas as Geshe Sonam Phuntsok, Agya Tsering and Sonam in Karze county and that there had never been a demonstration of 300 Tibetans demanding their release.

311. By letter dated 8 November 2000, the Government responded to all cases mentioned in the communication transmitted by the Special Rapporteur in November 1999 (E/CN.4/2000/9, paras. 208-225).

312. Concerning Liu Jingsheng, the Government indicated that he is serving his sentence in the Beijing No. 2 prison, sharing with several others a ventilated and well heated and lit cell measuring 32 square metres. He is in good health.

313. Concerning Yang Liming, Yang Wenli and Zhang Wenjing, the Government recognized that Yang Liming had falsely stated he had committed a murder in collusion with the two other above-named persons under pressure from :he police investigators from Xijie police station, Wuwei Municipal Public Security Bureau, Gnsu Province. Their confessions were extorted. On 8 January 1993, the Intermediate People's Court of the Wuwei prefecture sentenced them to death, but they lodged an appeal. On 25 April 1997, the Standing Committee of the Gansu Provincial People's Congress initiated an investigation. Four police investigators were eventually found guilty and sentenced to two years' imprisonment. Others were given appropriate punishment through administrative disciplinary measures. The three victims received 210,000 yuan renminbi as compensation.

314. Concerning Yu Dongyue, the Government indicated that he was currently serving his sentence in Chishan prison, Hunan Province. He had never been an inmate at Lingling prison. Since 1991, he has been suffering from a depressive mental disorder and has been under supervised medical treatment in the prison hospital.

315. Concerning Chen Jinchang, Wen Shaorong and Yao Zekun, the Government confirmed that there had been a miscarriage of justice. On 17 February 1998 the Yunnan Provincial Higher People's Court pronounced them and another person not guilty. They were released and awarded compensation of 100,000 yuan renminbi. The Government confirmed that more than 10 policemen and prosecutors were disciplined.

316. Concerning Fan Zhen, she is allowed 15 to 20 minutes exercise every hour. An inquiry has confirmed that Fan Zhen herself states that she has not been subjected to any torture.

317. Concerning Abdul Helil, the Government indicated that he is now serving his sentence in the Yili Prefecture detention centre. No evidence of extortion of his confession by torture during his detention has been found.

318. Concerning Zhou Guiyi, he hanged himself the night stolen items from the Xinzhou county post office, Hubei Province, were found at his place. Concerning Xiao Beizhou, he was released on bail on 4 January 1998 by the Xinzhou County Procuratorate of Hubei Province. On 8 January, he tried to hang himself at home and was immediately transferred to hospital for emergency care, but he died on 13 January due to prolonged lack of blood and oxygen in his brain and some complications. Concerning Yu Li, he was arrested on 26 February 1998 by officers of Xinzhou county. He injured himself during his arrest and was immediately transferred to hospital, but he died on 23 May in the Xinzhou County People's Hospital.

319. Concerning Liu Dongjie, the Government indicated that he had been arrested on 12 August 1998 and had confessed in writing that he had taken a bribe. The following day, he escaped and arrived at Peijia Village, Jiutai Municipality, Jilin Province. He later doused himself with two buckets of petrol and burnt himself to death. It has been confirmed by the investigation by the Military Prosecutor's Office of the Chinese People's Liberation Army that the allegations that he had been tortured contained in the letter referred to in the communication transmitted by the Special Rapporteur are groundless.

320. Concerning Cheng Meiying, the allegations of torture are groundless.

321. Concerning Zhao Jinhua, a Falun Gong practioner, the Government indicated that she had refused to go to hospital for treatment although she had been suffering from heart disease for a long time. Nevertheless, on 7 October 1999, she fainted and was immediately taken to hospital. She was subsequently transferred to Zhaoyuang municipal hospital for intensive care, but died on the way. The autopsy confirmed that she died of heart failure caused by acute myocardial infraction. The allegations of torture are groundless.

322. Concerning Yu Hanxin, he was arrested in August 1999. On 23 December 1999, the People's Procuratorate of Yueyanglou district, after examination of the case, decided to countermand his arrest and the police released him without delay. An inquiry has revealed that the local police did not torture him during interrogation.

323. Concerning Bazu, whose Buddhist name is Ngawang Kyonmed, he was detained on 17 December 1998. On 10 March 1999, proceedings were instituted against him and on 6 January 2000 the Lhasa Municipal Intermediate People's Court sentenced him to three years' imprisonment on the charge of incitement to split the State. He is currently serving his sentence and is in normal physical condition.

324. Concerning Samdrul, whose Buddhist name is Chilai Qudan, he was detained on 19 June 1998 and arrested on 17 December 1998. On 10 March 1999, proceedings were instituted against him and on 6 January 2000 the Lhasa Municipal Intermediate People's Court sentenced him to four years' imprisonment on the charge of incitement to split the State. He is currently serving his sentence and is in normal physical condition.

325. Concerning Norbu, whose Buddhist name was Liexie Danqu, he was arrested on 5 May 1995 on suspicion of protecting criminals. On 22 November 1995, the Lhasa Municipal Intermediate People's Court sentenced him to one year's imprisonment. In February 1996, he was released after serving his sentence. He died in his home town in 1998. The Government indicated that an inquiry had confirmed that he had not been tortured while in detention.

326. Concerning Tashi Tsering, he was arrested on 26 August 1999 in flagrante delicto while trying to ignite some explosives in Potala Square in Lhasa. He candidly confessed to the crime. During his detention, he attempted to kill himself on several occasions. On 15 October, his arrest was approved by the Lhasa Municipal People's Procuratorate. On 10 February 2000, he committed suicide to escape punishment by severing his veins with a sharp instrument. An inquiry confirmed that he had not previously been tortured.

327. Concerning Li Juhua, Zhou Zhi, Yang Junhua and Zhang Xiaohong, the Government indicated that it was not able to determine their whereabouts.

328. Finally, the Government indicated that it had consistently prohibited torture and other forms of ill-treatment and had adopted various effective measures to prevent and to punish such acts. It stressed that the People's Republic of China was one of the earliest States parties to the Convention against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, and has conscientiously fulfilled its obligations. Article 246 of the Criminal Law provides that any judicial functionary who extorts confessions from criminal suspects or defendants or extorts testimony from witnesses by violence shall be sentenced to fixed-term imprisonment of not more than three years, or to criminal detention. If their victims are injured, maimed or killed, they shall be punished with due severity. Article 248 provides that if supervisors in prisons, detention centres and other places of detention subject the inmates to beatings, other forms of corporal punishment or ill-treatment, they shall, in serious cases, be sentenced to fixed-term imprisonment of not more than three years, or criminal detention; if the circumstances are especially serious, they shall be sentenced to fixed-term imprisonment of not

less than three years and not more than 10 years. Article 22 of the People's Police Law provides that police officers are forbidden to extort confessions or to subject prisoners to corporal punishment or ill-treatment. They are not allowed to beat prisoners or instigate others to do so. Police officers who commit such acts shall be subject to administrative sanctions. If the acts constitute crimes, the perpetrators' criminal responsibility shall be investigated according to the law. There are similar specific provisions concerning prison officials in the Prison Law. Finally, the Government stated that victims are completely free to appeal, in accordance with legal procedures.

Observations

329. The Special Rapporteur appreciates the responses of the Government and is encouraged by the reference to a specific case of law enforcement officials being found guilty of extorting confessions. Nevertheless, he regrets that the Government has not been in a position to consider that its invitation to the Special Rapporteur to make a "friendly visit" to China (that was to take place in May 2000) amounted to an acceptance of the Special Rapporteur's request for a standard fact-finding visit. He has sought to pursue contacts with the Permanent Mission of China to the United Nations at Geneva, with a view to finding a solution that would take account of the Government's concerns, while remaining consistent with the Special Rapporteur's belief that his standard methodology is important to his work and that he should not discriminate between countries.

330. Meanwhile, he notes that the Committee against Torture, in its review of China's third periodic report under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in May 2000, expressed its concern about "the continuing allegations of serious incidents of torture, especially involving Tibetans and other national minorities" (A/55/44, para. 116). The Special Rapporteur shares that concern and, in the light of the above allegations, considers that the same concern must also extend to adherents of Qi Gong groups, such as Falun Gong and Falun Dafa.

331. Among the important recommendations of the Committee against Torture, he believes the following should be highlighted:

That a definition of torture that fully complies with the definition contained in the Convention be incorporated in domestic law (ibid., para. 123);

That consideration be given to abolishing the requirement of applying for permission before a suspect can have access for any reason to a lawyer whilst in custody (ibid., para. 126) and to abolishing all forms of administrative detention, in accordance with the relevant international standards (ibid., para. 127); and

That the prompt, thorough, effective and impartial investigation of all allegations of torture be ensured (ibid., para. 128).

Colombia

332. By letter dated 6 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998 regarding which no reply had been received.

Urgent appeals

333. El 15 de marzo de 2000, el Relator Especial envió un llamamiento urgente conjuntamente con el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias sobre la siguiente situación. Desde el 16 al 19 de febrero de 2000, 350 hombres del grupo paramilitar Autodefensas Unidas de Colombia (AUC) habrían llevado a cabo una incursión en los municipios de Ovejas, en los departamentos de Sucre y El Salado, Bolívar. Los paramilitares se habrían desplazado por diversas localidades pasando por San Pedro, Canutalito, Canutal, Flor del Monte, Bajo Grande, El Cielito, Palmarito y Cienagueta y luego hacia el corregimiento de El Salado. A su paso, habrían asesinado a 54 personas y habrían trasladado a un grupo de personas a una cancha de baloncesto, les habrían ido torturando hasta provocar la muerte de 36 personas. Las víctimas presentaban mutilaciones, heridas de arma de fuego y cortopunzantes y destrucción de la bóveda craneana.

Follow-up to previously transmitted communications

334. Por cartas con fechas 29 de marzo, 11 de abril, 19 de junio, 24 de julio, 22 de agosto, 18 de octubre y 27 de noviembre de 2000, el Gobierno envió diferentes publicaciones en relación a los derechos humanos en Colombia, junto con una copia del texto del Decreto N° 1592 sobre la creación del Programa de Protección a Periodistas y Comunicadores Sociales que en el ejercicio de sus funciones asuman la difusión, defensa, preservación y restablecimiento de los derechos humanos y aplicación del derecho internacional humanitario y que por tal circunstancia se encuentran en situación de riesgo.

335. Por carta de fecha 8 de diciembre de 2000, el Gobierno respondió a los siguientes casos enviados el 6 de noviembre de 2000 (E/CN.4/999/61).

336. Respecto al caso de Marcos Bermúdez, Javier Eliecer Delgado, Wilson de Jesús Largo Guarán y Juan Jairo Usme Sánchez (ibíd., párr. 148), se espera una respuesta de la Fiscalía General de la Nación.

337. Respecto al caso de Estanislao Castellano G. (ibíd., párr. 149), el Gobierno respondió que la Fiscalía General solicitaba información más precisa sobre los hechos y autoridad ante la cual se presentó la denuncia.

338. Respecto al de Diafanor Sánchez Celada, Luis Hernando David Higuita y Elkin Emilio Tuberquía Sepúlveda (ibíd., párr. 151), la Dirección General informó de que la investigación se adelanta por presunto homicidio, el cadáver no se encontró, se inició investigación por el informe emitido por la Personería Municipal a la Fiscalía Seccional de Apartado.

339. Respecto al caso de Juan Cañas y esposa Clara (ibíd., párr. 154), el Gobierno informó de que requiere más información sobre los hechos y detalles acerca de la denuncia formulada ante la autoridad colombiana.

340. Respecto al caso de José Dolores (ibíd., párr. 155), el Gobierno respondió que la Fiscalía General solicita suministrar información más precisa sobre los hechos y autoridad ante la cual se presentó la denuncia.

341. Respecto al caso de Edilberto Jiménez (ibíd., párr. 156), el Gobierno informó de que la respuesta se espera de la Fiscalía General.

342. Respecto al caso de José Antonio Gracían y Jairo Valencia Venegas (ibíd., párr. 158), el Gobierno respondió que se ha solicitado información actualizada del estado penal de las investigaciones y cuando se reciba una respuesta se enviará al Relator Especial.

343. Respecto al caso de Antonio Tuberquia, su esposa Blanca Libia Guzmán, y Edilberto Usuga (ibíd., párr. 163), el Gobierno respondió que la Fiscalía Especializada comunicó que la investigación previa fue iniciada por la Fiscalía Regional con base en la denuncia formulada por un ciudadano de la Comisión de Justicia y Paz. Ha sido difícil lograr la comparecencia de unos declarantes a fin de poder establecer la forma en que sucedieron los hechos.

344. Respecto al caso de Ariel Tovar Baron (ibíd., párr. 164), el Gobierno respondió que se esperan informes de la Fiscalía General de la Nación, Ministerio de Defensa Nacional y Procuraduría General de la Nación.

345. Respecto al caso de Benedicto Aguilar, Gerardo Alonza, Luz Stella Criollo (ibíd., párr. 166), el Gobierno respondió que en colaboración con la Unidad Nacional de Derechos Humanos y la Fiscalía General, dispuso la práctica de pruebas y se le encomendó al Cuerpo Técnico de Investigaciones la ejecución de las pruebas, y se esperan resultados.

346. El Gobierno añadió información sobre los casos de Danilo Lozano y Giacomo Turra que no han sido mencionados en los informes del Relator Especial.

Observations

347. The Special Rapporteur appreciates the responses of the Government and is pleased to have the opportunity to comment on the information supplied by the Government in the previous year (E/CN.4/2000/9/Add.1, paras. 20-55) in relation to follow-up to the recommendations contained in the report on his joint visit with the Special Rapporteur on extrajudicial, summary or arbitrary executions to Colombia (E/CN.4/1995/111). He welcomes numerous measures taken consistent with the report's recommendations. In particular the new Military Penal Code adopted in June 1999 contains positive elements, including the exclusion from military jurisdiction of torture. He shares, however, the misgivings referred to in last year's report of the High Commissioner for Human Rights on the Office in Colombia (E/CN.4/2000/11, paras. 137-138), especially those concerning the

Code's failure to exclude obeying orders as a pretext for avoiding responsibility and the maintenance of senior officers as members of the courts. He also regrets the Government's blocking the adoption of legislation characterizing enforced disappearance, genocide, forced displacement and torture (ibid., 139-141).

Congo

348. Par une lettre datée du 17 novembre 2000 envoyée conjointement avec le Rapporteur spécial sur les exécutions extrajudiciaires, sommaires ou arbitraires, le Rapporteur spécial a informé le gouvernement qu'il avait reçu des informations selon lesquelles 12 personnes seraient récemment décédées en détention au commissariat de police de Tié-Tié 2 à Pointe Noire alors qu'elles étaient regroupées dans une cellule exiguë sans système d'aération.

Observations

349. The Special Rapporteur considers it appropriate to bring to the attention of the Commission the relevant findings of the Human Rights Committee on its consideration of the second periodic report of the Republic of Congo in March 2000 under the International Covenant on Civil and Political Rights, where the Committee expressed its concern at "the use of torture and cruel, inhuman or degrading treatment and at the failure to criminalize torture as such in internal law in such a way that it is no longer possible to treat cases of torture as simple cases of voluntary infliction of blows and wounds" and recommended that "effective measures" be taken "to combat torture, to criminalize torture and other cruel, inhuman or degrading treatment or punishment in internal law, to punish the perpetrators of such crimes and, in future, to avoid treating cases of torture as simple cases of voluntary infliction of blows and wounds". (CCPR/C/79/Add.118 of 25 April 2000, para. 13.)

Croatia

350. By letter dated 5 October 2000, the Special Rapporteur advised the Government that he had received information on the following individual cases, to which the Government responded by letter dated 4 December 2000.

351. **Nikola Meletič** was reportedly detained on 29 October 1999 by two officers of the special police in Dubrovnik, apparently for failing to close his bar on time. He was allegedly beaten and kicked in the stomach by the two officers at the time of arrest and at the police station. He was then denied the right to call a lawyer or his family. He lost consciousness later that night and sought medical treatment following his release. According to a medical report issued by Dubrovnik General Hospital, he sustained bruising to his head, neck and shoulder, as well as injury to his eye. He is said to have filed a criminal complaint against the five police officers allegedly involved.

352. The Government responded that the allegations of ill-treatment by the police were completely unfounded. A police officer from the First Police Station Dubrovnik and three members of the Special Police Unit had, during operation "Kor" on 29 October 1999, used

compulsory means against Nicola Miletić, who had disturbed the public order by playing too loud music and exceeding the working hours of the coffee-bar. He was warned repeatedly by the police and insulted the officers. He resisted and physical force was used against him, including means of restraint. When he complained about pains in his shoulders after he had been taken into custody, two police officers facilitated a medical examination in the ambulance of the Dubrovnik General Hospital. After the medical examination, a doctor informed the police officers that Nikola Miletić did not have any physical injuries, so he was returned to the police station. He was taken into detention at 1.15 a.m. on 29 October 1999 and released at 12.45 p.m. His father was informed about his arrest at 1.29 a.m. He refused to sign the official report on the detention. The official report on the use of compulsory means in this case was sent to the Ministry of the Interior, and a request to start misdemeanour proceedings against Nikola Miletić was submitted. On 16 November 1999, Nikola Miletić brought criminal charges against six members of the Special Police Unit on the basis of "maltreatment while performing duty or mandates", attaching a medical certificate confirming that he had come to the ambulance on 29 October 1999 at 1.45 p.m. and then again at 3.10 p.m. the same day, and that he was slightly physically injured (struck on the head, right shoulder, back, neck and abdomen). Following this, the Municipal Prosecutor's Office sent a letter on 23 November 1999 with a request for additional information with regard to this event to the First Police Station Dubrovnik, which sent a special report to the Prosecutor's Office on the procedures used. The collected data did not confirm that maltreatment had occurred. At present, the Government has no feed-back information on the progress of this case. Nikola Miletić has contacted the news media to bring the police officers and the complete service into disrepute. The reports by the newspapers, the criminal charges brought and his allegations, especially regarding his having been handcuffed and given electric shocks, are not correct.

353. The police reportedly ill-treated **several persons participating in annual demonstrations**, on 9 May 2000 in Zagreb, organized by pressure groups which seek to change the name of the capital's "Square of Croatian Great Men" (Trg hrvatskih velikana) back to its original name - "Square of the Victims of Fascism" (Trg zrtava fasizma). Skirmishes reportedly broke out between demonstrators and supporters of right-wing groups opposing the demonstration. Three demonstrators were taken to a nearby police station by plainclothes special police officers who allegedly kicked and beat them in the process, tore out tufts of hair from one individual and broke the spectacles of another. No investigations are believed to have been launched into these reports of ill-treatment. Furthermore, some 30 other demonstrators were apparently followed by a large group of right-wing supporters as they left the square. Out of fear for their safety the demonstrators chose to walk home via a street on which a police station is located. When some of their pursuers started throwing stones at them, police standing by in the porch of the police station reportedly refused to intervene.

354. The Government responded that due to the disturbing of the public peace and order, and due to the attack on a police officer on 9 May 2000 while securing the public gathering, compulsory means had been applied by police officers on six persons taken into custody. The Government provided further information on the following individuals. Three officers of the Special Police Unit used physical force against **Dražen Bujas**. However, no consequences arose from this. His allegations of ill-treatment were carefully examined and a written answer was sent

to him. Physical force was applied by two officers of the Special Police Unit to overcome the resistance of **Saša Šimpraga** when he was taken into the official premises. He was later diagnosed by a doctor, who stated that his right elbow had been struck, without describing the injury. After leaving the Fifth Police Station, he made allegations of ill-treatment which were examined and a written answer was sent to him. The fifth Police Station submitted a request to initiate misdemeanour proceedings against the two individuals. Concerning Marijo Kovač, it was established that an officer of the Special Police Unit applied physical force while taking him to the official premises. There were no consequences as a result of the force and Marijo Kovač did not complain about the procedure used by the police officers but lodged an appeal against the decision on detention, which was rejected. The Fifth Police Station submitted a request to initiate misdemeanour proceedings against him and Kristijan Šalič and Igor Plesej. Concerning **Borna Matič**, two officers of the Special Police Unit applied physical force when bringing him into the official premises. He did not complain about the detention and his treatment, although he stated in an additional interview with an officer of the Combating Terrorism Unit of the Criminal Police on 12 May 2000 that one of the officers had pulled out a tuft of his hair. After the interview, he underwent a medical examination. A criminal investigation was carried out and the file was forwarded to the State Prosecutor's Office in Zagreb, of which Borna Matič was informed. Physical force was used on **Ivica Ravič** by two officers of the Special Police Unit, but did not cause any consequences. Misdemeanour proceedings had been requested by the police against him.

355. The Government provided further information concerning Sebastijan Koren, against whom physical force and means of restraint had been used by an officer of the First Police Station in self-defence, which was later found to be lawful and justified. The Fifth Police Station had submitted criminal charges against him on suspicion that he had committed a criminal act against the officer.

Cuba

356. Con fecha 10 de octubre de 2000, el Relator Especial notificó al Gobierno que había recibido información según la cual algunos centros penitenciarios no cumplirían con las Reglas mínimas para el tratamiento de los reclusos. Por carta de fecha 30 de noviembre de 2000, el Gobierno respondió sobre la siguiente información.

357. Los prisioneros sufrirían de malnutrición y permanecerían en celdas atestadas y sin adecuada atención médica. Algunos de ellos sufrirían abusos físicos y sexuales perpetrados por otros detenidos que contarían con el consentimiento de los guardias carcelarios y pasarían largos períodos de aislamiento en sus celdas. En muchos casos no se separarían los presos comunes de los menores que esperan sentencia.

358. En la cárcel de mayor rigor de La Habana, **Combinado del Este**, en el mes de marzo de 2000 habrían muerto seis presos enfermos de tuberculosis, VIH y otras enfermedades, aparentemente por negligencia del personal médico y paramédico del hospital del penal. En la prisión de **Quivica** en la provincia de La Habana, habría empeorado el hambre para todos los reclusos por la falta de leña para la cocina de dicho centro penitenciario. En la prisión existiría

carencia de medicamentos, para dolencias como cólicos estomacales, dolores de cabeza y fiebre. En la prisión del régimen de mayor severidad de **Agüica** en Colón, Matanzas, las condiciones higiénicas y sanitarias en las que conviven los presos serían muy duras. Veintisiete enfermos de neuritis óptica bilateral severa y polineuropatía periférica, conocida como beriberi, no recibirían tratamiento médico correspondiente ni alimentación adecuada.

359. El Gobierno informó de que en los centros penitenciarios en Cuba se aplican los reglamentos disciplinarios y se prohíben no solamente los abusos de las autoridades a los reclusos, sino que se sancionan los abusos físicos y sexuales entre los propios reclusos. Los centros penitenciarios cumplen plenamente con las Reglas mínimas para el tratamiento de los reclusos y durante los últimos 40 años no ha sido posible demostrar un solo caso de tortura en el desempeño de las autoridades cubanas o sus agentes. Los menores son internados en centros especializados y nunca en compañía de presos adultos. No se ha producido muerte alguna en el Combinado del Este como consecuencia de la negligencia del personal médico o paramédico y son falsas las alegaciones de supuesta hambre o carencia de medicamentos en la prisión de Quivicán, asimismo, con respecto a las prisiones de Agüica y Guantánamo, en ellas existen todas las facilidades y un personal médico y paramédico profesional y humano. Todo prisionero recibe una dieta que le garantiza condiciones normales de nutrición, y a aquellos que por su estado de salud requieren atención diferenciada, se les facilita esta posibilidad.

360. **Lázaro Pérez Cano** habría iniciado una huelga de hambre a raíz de las condiciones de vida en la cárcel de régimen de mayor seguridad de Agüica en Colón, Matanzas. El preso habría sido aislado del resto de la población penal por las autoridades y ubicado en la celda del vivac, sin luz eléctrica, sin agua, sin colchón y desnudo. Pérez Cano sería uno de los 27 enfermos de neuritis óptica bilateral severa.

361. Respecto a Lázaro Pérez Cano, el Gobierno informó de que son falsas las alegaciones que afirma que ha sido sometido a malos tratos en represalia a la huelga de hambre que éste iniciara en razón de las condiciones de la prisión.

362. El área de la Prisión de **Guantánamo**, conocida por "depósito" o "cuarentena", que se encontraría en el piso 3-C, contaría con 27 celdas o cubículos, con un área aproximada de 8 m de largo por 2 m de ancho, con una capacidad de 9 personas en literas de 3 camas. Entre los enfermos con tuberculosis se destacarían: **Julio Limonta Cajigal** y **Joel Quintana Salomón**; con hepatitis, **Eugenio Hernández Reñez**; con varicela: **Orlando Álvarez Cuartel**; **Yudel Cintra Martínez**, esquizofrénico, paranoico e impedido físico. De acuerdo a la información no recibirían atención médica adecuada.

363. **Alexander Giordano** habría fallecido en la cárcel de Nieves Morejón, en la provincia de Sancti Spíritus, supuestamente por falta de atención médica. El nombrado habría sido llevado a la sala de operaciones en dos oportunidades por obstrucción intestinal. En la segunda oportunidad, después de pedir ayuda médica durante ocho días en la sala de penados del Hospital Provincial Camilo Cienfuegos en Sancti Spíritus, habría sido examinado e intervenido de inmediato. Habría fallecido en la madrugada del 17 de octubre de 1999.

364. En relación con este caso, el Gobierno señala que la falta de exactitud de los datos no permite por el momento concluir las investigaciones.

365. **Marcelo Diosdado Amelo Rodríguez,** quien se habría desempeñado como Presidente del Club de Presos y Ex Presos Políticos "Gerardo González, el Hermano de la Fe", habría sido detenido el 19 de febrero de 1993, por el supuesto delito de rebelión en la Causa 14 de 1993. A raíz de su delicado estado de salud debido a una insuficiencia circulatoria crónica e hipertensión arterial descompensada, habría sido ingresado en una celda de aislamiento del hospitalito de la Prisión Provincial de Boniato.

366. El Gobierno informó de que son falsas las alegaciones de deficiencia de asistencia médica o malas condiciones de vida con relación a Marcelo Diosdado Amelo Rodríguez.

367. **Yesenia Rodríguez Aguilar** habría sido confinada en la Prisión Provincial de Mujeres de Guantánamo. Custodiada por su reeducadora oficial, Dignora Navarro, se habría dirigido al Hospital General Docente Agostino Neto para la realización de un ultrasonido el 29 de enero de 2000. La nombrada, que se encontraría en estado de gestación, habría sido presionada por las autoridades carcelarias y el médico de la penitenciaría para que aceptara un método abortivo, a lo que se habría negado. Yesenia Rodríguez Aguilar padecería de fuertes dolores lumbares e hipogástricos como consecuencia de infección en los riñones. Se le habría negado asistencia médica por no aceptar el aborto.

368. **Juan Carlos Carrillo Martínez** habría fallecido el 3 de febrero de 2000 en el hospital territorial Dr. Mario Muñoz Monroi de la ciudad de Colón, luego de una golpiza que aparentemente le habrían propinado oficiales del Interior de la prisión Canaleta. El cadáver presentaría hematomas y contusiones en las piernas, en la espalda y bajo el pómulo del ojo izquierdo, le habrían partido cuatro dientes y tendría ocho puntos de sutura alrededor de su boca. Los familiares de la víctima que lo habrían visitado el 11 de febrero de 2000 habrían apreciado signos de maltratos físicos.

369. Respecto a este caso, el Gobierno informó de que la muerte de Juan Carlos Carrillo Martínez se debió a una bronconeumonía. Esta afirmación se basa en la necropsia llevada a cabo el 4 de febrero de 2000; según los resultados de la misma, no se encontraron en el exterior del cadáver signos de violencia quirúrgicos o de otra índole y el examen interior del mismo reflejó que ambos pulmones estaban aumentados de tamaño, con abundante líquido seropurulento, lo que corrobora, según afirma el Gobierno, los diagnósticos clínico y radiológico de una bronconeumonía por gérmenes no precisados. El Gobierno señala que la Fiscalía Militar de Colón, provincia de Matanzas, informó de que Juan Carlos Carrillo Martínez acudió al puesto médico de la prisión, el 31 de enero, con la sintomatología de diarrea abundante, con flema y sangre, acompañada de una falta de apetito. En el examen físico realizado sólo se encontró el abdomen ligeramente doloroso a la palpitación del epigastrio, sin otra alteración y luego se presentó de nuevo en el puesto médico con decaimiento, debilidad muscular y falta de apetito, por lo que se decidió su ingreso. El 2 de febrero se decidió su traslado al Hospital Municipal de Colón donde se determinó que el paciente padecía de una neumonía aguda, falleciendo a las 23.30 del 3 de febrero.

370. El Gobierno afirma que no hubo hechos delictivos vinculados al fallecimiento y que se incluyeron en la investigación las entrevistas realizadas a los reclusos que compartían celda con Juan Carlos Carrillo Martínez. El resultado de dichas entrevistas coincide en que ni los agentes ni otros reclusos golpearon en ningún momento a Juan Carlos Carrillo Martínez.

371. **Carlos Enrique Marrero González** estaría detenido en la Prisión Especial de Máxima Severidad, conocida como Kilo 8, en la provincia de Camagüey. Habría sido víctima de abusos físicos por parte de un agente del Gobierno el 24 de octubre de 1998, a raíz del cual habría sufrido fractura en tres partes de su cabeza, traumatismo de médula espinal y fractura de coxis. Desde entonces estaría en cama sin poder caminar y pese a sus pedidos a las autoridades gubernamentales, no contaría con asistencia médica.

372. Además, el Relator Especial transmitió los dos siguientes casos.

373. **Ileana González Rodríguez** habría sido arrestada el 25 de diciembre de 1999 por un agente de policía, y posteriormente habría sido conducida en un jeep a la unidad policial de El Capri en Arroyo Naranjo. Durante las 18 horas que habría estado detenida habría sufrido agresiones verbales y físicas. Habría sido llevada al calabozo sin ningún documento por unos minutos para posteriormente ser conducida a una habitación donde una persona vestida de civil la habría golpeado, le habría desgarrado la ropa dejándola prácticamente desnuda delante de los otros agentes allí presentes.

374. En relación a Ileana González Rodríguez el Gobierno informó de que son totalmente falsas las alegaciones de los malos tratos recibidos.

375. **Liván González Larrudé** habría fallecido el 8 de febrero de 2000 en el hospital Hermanos Almajeiras de Centro Habana, a consecuencia de una lesión severa de cráneo supuestamente provocada por agentes del orden interior que habrían estado custodiando la discoteca "La Palma", en el municipio de Arroyo Naranjo. Testigos que se encontrarían en el lugar de los hechos habrían visto a cuatro agentes que lo habrían esposado y golpeado para posteriormente desaparecer, dejándolo inconsciente y ensangrentado.

376. Respecto al caso de Liván González Larrudé, el Gobierno señala que fue detenido el 6 de febrero de 2000 por alteración del orden, encontrándose bajo los efectos del alcohol; tras lograr evadirse de la policía, llegó a una azotea desde donde cayó al suelo; 14 testigos han corroborado los hechos y el acta de necropsia señala una muerte violenta que corresponde a la caída de la azotea. Tras su caída fue encontrado en la calle y trasladado por la policía al Policlínico Julián Grimau donde se dispuso su traslado al Hospital Julio Trigo, y posteriormente al Hospital Miguel Hernández donde se le practicó una operación al cráneo y debido a su estado de gravedad se le trasladó al Hospital Hermanos Amijeiras por ser uno de los mejor equipados del país, donde falleció.

Urgent appeals and replies received

377. Con fecha 16 de febrero de 2000, el Relator Especial transmitió conjuntamente con el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, un llamamiento urgente en favor de **Juan Carlos Carrillo Martínez**, recluso de la prisión de Canaleta. Habría

sido fuertemente golpeado por agentes del Ministerio del Interior el 3 de febrero, tras lo cual habría sido inmediatamente trasladado al Hospital de Colón, en la provincia de Matanzas, donde falleció posteriormente. Según se refleja en el certificado de defunción, habría fallecido debido a una pulmonía.

378. Por carta con fecha 26 de mayo de 2000, el Gobierno informa de que la muerte de Juan Carlos Carrillo Martínez se debió a una bronconeumonía. Esta afirmación se basa de la necropsia llevada a cabo el 4 de febrero de 2000. Según los resultados de la misma, no se encontraron en el exterior del cadáver signos de violencia quirúrgicos o de otra índole y que el examen interior del mismo reflejó que ambos pulmones estaban aumentados de tamaño, con abundante líquido seropurulento que corroboran los diagnósticos clínico y radiológico de una bronconeumonía a gérmenes no precisados. El Gobierno señala que la Fiscalía Militar de Colón, provincia de Matanzas informó de que Juan Carlos Carrillo Martínez acudió al puesto médico de la prisión, el 31 de enero con la sintomatología de diarrea abundante, con flema y sangre, acompañada de una falta de apetito. El 2 de febrero se decidió su traslado al Hospital Municipal de Colón donde se determinó que el paciente padecía de una neumonía aguda, falleciendo el 3 de febrero. El Gobierno afirma que no hubo hechos delictivos vinculados al fallecimiento y que se incluyeron en la investigación las entrevistas realizadas a los reclusos que compartían celda con Juan Carlos Carrillo Martínez. El resultado de dichas entrevistas coinciden en que ni los agentes ni otros reclusos golpearon en ningún momento a Juan Carlos Carrillo Martínez.

Observations

379. The Special Rapporteur is concerned that over the years he has received many allegations, consistent and sustained, suggesting that there are substantial abuses in the Cuban prison system in the form of overcrowding, inadequate resources, neglectful medical attention and abuses by institutional personnel or by inmates acting with at least the acquiescence of such personnel, as well as culpable omission to ensure timely needed medical attention. He believes that the authorities would be well-advised to institute a thorough inquiry within the prison system, preferably with the participation of international experts in prison administration.

Democratic Republic of the Congo

380. Par une lettre datée du 17 août 2000, le Rapporteur spécial a informé le gouvernement qu'il avait reçu des renseignements selon lesquels la torture serait largement pratiquée. Les viols de femmes et les sévices à caractère sexuel infligés aux hommes seraient des pratiques courantes. De plus, les conditions de détention seraient déplorables.

381. Le Rapporteur spécial a aussi transmis au gouvernement des renseignements selon lesquels les défenseurs des droits de l'homme feraient l'objet de menaces et de violences de la part de membres des forces de l'ordre dans le but de les punir pour leurs activités en faveur des droits de l'homme ou de les empêcher de poursuivre de telles activités. Les cas suivants ont été présentés par le Rapporteur spécial.

382. **Floribert Chebeya Bahizire**, président des Voix des sans voix (VSV), en faveur duquel le Rapporteur spécial était déjà intervenu en octobre 1999, et **Olivier Kungwa**, un des membres, auraient été convoqués par la détection militaire des activités antipatrie (DEMIAP) en janvier 1999. Ils y auraient été menacés de mort et d'autres formes de violences, apparemment en raison de leurs activités.

383. **Micheline Mapangala**, une secrétaire des VSV, se serait présentée sur convocation au Comité de sécurité de l'État (CSE) le 9 juillet 1999 où elle aurait été menacée de viol et d'autres formes de violences. Elle aurait été relâchée le même jour sans avoir été inculpée.

384. **Christophe Bintu** et **Bienvenue Kasole**, deux membres du Collectif des organisations et associations des jeunes du Sud-Kivu (COJESKI), ainsi que 25 Tutsis, auraient été arrêtés le 12 janvier 1999 au centre Bethanie, un centre catholique, où ils avaient trouvé refuge après avoir subi des persécutions dans l'est du pays. Ils auraient été détenus dans les baraquements de Kokolo, où ils auraient été menacés et frappés.

385. **Wetemwami Katembo Merikas**, membre du COJESKI en faveur duquel le Rapporteur spécial a envoyé un appel urgent (le 20 septembre 1999) après son arrestation, aurait été arrêté le 8 septembre 1999. Le Groupe spécial de sécurité présidentielle (GSSP) l'aurait accusé d'être membre d'une organisation politique d'opposition. La raison de ces accusations serait en fait la publication d'un rapport par le COJESKI sur les violations des droits de l'homme dans la province du Sud-Kivu par les forces armées burundaises. Il aurait été détenu au poste de police sous-communal de Gombe où il aurait été frappé par plusieurs policiers. Il aurait aussi été jeté dans une cellule pieds et poings liés et frappé. Il aurait été ensuite transféré au bâtiment dit du Groupe Litho Moboti (GLM), qui serait utilisé comme centre de détention secret par le GSSP. Il y aurait été fouetté huit fois chaque matin, après-midi et soir, durant toute la durée de sa détention.

386. **Ilunga Kabeya** et **Tumba Betu** ainsi qu'une dizaine d'autres membres de l'association des étudiants de l'Université de Lubumbashi auraient été arrêtés le 4 novembre 1998 alors qu'ils demandaient des bourses d'études. Il auraient été détenus à l'agence nationale de renseignements pendant plusieurs jours durant lesquels ils auraient été violemment battus à plusieurs reprises. Une jeune femme enceinte, **Manuunga**, aurait fait une fausse couche suite au viol auquel elle aurait été soumise.

387. **Celestin Mayala**, porte-parole de l'intersyndicale de l'administration publique, et **Malu Tshisongo**, Rapporteur général de l'intersyndicale, ainsi que sept autres membres, auraient été arrêtés le 3 août 1999 par des membres de la police d'intervention rapide de Kinshasa pour avoir organisé des grèves. Ils auraient été détenus au quartier général de la police provinciale de Kinshasa où ils auraient été battus avant d'être relâchés deux jours plus tard sans avoir été inculpés.

388. De plus, le Rapporteur spécial a transmis des renseignements sur les cas individuels suivants.

389. **Godelieve Mesa** aurait été arrêtée chez elle par des policiers le 17 juillet 1999. Sa résidence servirait aussi de salle de réunion pour le Parti lumumbiste unifié (PALU). Elle aurait aussi été frappée et forcée de se déshabiller et ramenée nue au poste de police. Les policiers seraient ensuite retournés chez elle où ils auraient arrêté trois autres membres du PALU qui auraient eu les yeux bandés avant d'être frappés avec la crosse des armes des policiers. Ils auraient été tous les quatre frappés et forcés de danser et de chanter à la gloire du gouvernement. Godelieve Mesa aurait été gardée nue pendant deux jours avant d'être relâchée sans avoir été inculpée. Les trois hommes auraient été relâchés deux jours plus tard.

390. **Hassan Kabengele** aurait été arrêté par la police en compagnie de 11 autres membres de l'Union pour la démocratie et le progrès à Kinshasa le 29 mai 1999 lors d'une réunion du parti. Les policiers auraient incité, sans succès, la population à les lapider. Ils auraient ainsi été conduits au poste de police communal où ils auraient été complètement déshabillés devant la foule. Plus tard, ils auraient été transférés à l'Inspectorat de police de Kinshasa (IPK), anciennement circonscription militaire ("Circo") où ils auraient été menacés d'être battus et fouettés. Ils auraient été ensuite transférés dans plusieurs centres de détention où, à chaque fois, ils auraient été forcés de voir d'autres détenus se faire frapper. Ils auraient été relâchés sans avoir été inculpés le 1er juillet 1999.

391. **Clovis Kadda**, le directeur du journal L'Alarme, aurait été arrêté le 22 septembre 1999 et interrogé à la base militaire de Kinshasa. Après avoir découvert qu'il était de la même famille que l'un des commandants des groupes armés d'opposition, les soldats l'auraient accusé de complicité avec l'ennemi et l'auraient frappé. Il aurait été fouetté 57 fois.

392. **Frédérique Bomwenda**, une femme, lieutenant-colonel de l'armée, aurait été violemment torturée car soupçonnée d'entretenir des liens avec les groupes armés d'opposition. Elle aurait été arrêtée le 30 décembre 1998 au Bas-Congo où elle commandait des troupes des Forces armées congolaises. Elle aurait été transportée au bâtiment dit GLM où elle aurait été détenue nue et fouettée. Elle y était encore détenue en avril 2000.

393. **Astrid Tshibwabwa**, la belle-mère de Ntumba Kalala, qui aurait été parmi les 23 prisonniers exécutés à Kinshasa le 25 mai 1999 après avoir été déclarés coupables de détournement de fonds, aurait été arrêtée le 21 mai 1999 par la détection militaire des activités antipatrie. Elle aurait été frappée dans le but de recouvrer l'argent soi-disant volé par son beau-fils. Bien qu'elle ait payé la somme requise, elle aurait continué à être détenue au secret. Aucune information sur sa situation n'était disponible au début de 2000.

394. **Kally Kalala Buadi**, fonctionnaire, de Mbuji-Mayi, aurait été arrêté le 6 août 1999 à l'aéroport N'djili de Kinshasa. Relâché après deux jours, il aurait reçu l'ordre de se rendre à Mbuji-Mayi où il aurait été arrêté par la brigade spéciale de recherche et de surveillance. Pendant les cinq premiers jours de sa détention, il aurait été quotidiennement amené chez un haut fonctionnaire qui l'aurait fait battre par des membres de sa famille. Il aurait entre autres été frappé avec une machette et attaché nu à un arbre. Deux avocats qui auraient essayé d'intervenir en sa faveur, auraient à leur tour été détenus.

395. **Freddy Loseke**, l'éditeur de La Libre Afrique, aurait été arrêté à Kinshasa le 31 décembre 1999 pour avoir publié le 29 décembre un article sur un complot contre le Président. Il aurait été emmené au camp de Kokolo où il aurait reçu des coups de pied d'un des officiers. Il aurait été relâché le 9 janvier 2000. Freddy Loseke aurait été à nouveau arrêté le 10 janvier et ramené au Camp de Kokolo, où il aurait été frappé et fouetté. Il aurait comparu devant la Cour d'ordre militaire le 12 janvier et inculpé de "propagation de fausses nouvelles". En février, il aurait commencé à souffrir de sérieux problèmes aux reins et n'aurait pas reçu de soins. Il aurait été détenu au secret jusqu'au 25 février 2000, date à laquelle il aurait été transféré au centre pénitentiaire et de rééducation de Kinshasa.

396. **Mayonde Kolongo**, journaliste du Défi africain, aurait été frappé et fouetté dans la nuit du 23 au 24 mai 1999 après avoir demandé à un policier de rang supérieur de mettre fin à sa détention arbitraire. Il aurait été arrêté le 22 mai pour s'être querellé avec un contrôleur de bus. Les deux hommes se seraient rendus au poste de police du Mont Amba pour régler cette affaire. Mayonde Kolongo aurait alors été arrêté. Il aurait finalement été relâché le 24 mai.

397. **Jeanine Bouchez Mwayuma**, une femme originaire de Bukavu, aurait été arrêtée le 28 décembre 1998 et détenue au Conseil national de sécurité à Kinshasa. Elle aurait été accusée d'entretenir des liens avec les groupes armés d'opposition. Elle aurait été fouettée deux fois par jour et aurait été menacée de mort à plusieurs reprises pour avoir "trahi la patrie". Le 6 janvier 1999, elle aurait été transférée au bâtiment dit du GLM où elle aurait été violemment battue, en particulier avec des tuyaux en métal. Des soldats et un de leurs commandants l'auraient par ailleurs emmenée dans un hôtel dans le quartier de Kintambo où ils l'auraient interrogée et violée. Elle aurait ensuite été emmenée à la détection militaire des activités antipatrie d'où, à plusieurs reprises, elle aurait été emmenée dans des hôtels pour y être violée. Le 16 février 1999, elle aurait été transférée au centre pénitentiaire et de rééducation de Kinshasa.

398. By letter dated 8 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998 and 1999 regarding which no reply had been received.

Urgent appeals and replies received

399. Le 14 janvier 2000, le Rapporteur spécial a envoyé un appel urgent conjoint avec le Rapporteur spécial sur la situation des droits de l'homme en République démocratique du Congo et le Président-Rapporteur du Groupe de travail sur la détention arbitraire en faveur de **Balanda Mikuin Leliel**, professeur à la faculté de droit de l'Université de Kinshasa et ancien premier président de la Cour suprême de justice, qui aurait été arrêté le 6 janvier 2000 et conduit au cachot de l'Agence nationale de renseignements (ANR) dans la commune de Ngaliema. Il aurait été arrêté en raison de sa collaboration avec la Mission de l'Organisation des Nations Unies au Congo (MONUC).

400. Le 7 février 2000, le Rapporteur spécial a envoyé un appel urgent conjoint avec le Rapporteur spécial sur la situation des droits l'homme en République démocratique du Congo en faveur de **Me Lyaembe Kasuku**, qui aurait été arrêté à son cabinet le 14 janvier 2000 par

quatre agents de l'ANR. Il aurait été incarcéré au Conseil de sécurité de l'État où il aurait été violemment battu. Il aurait été libéré le 15 janvier et aurait été traité à la clinique universitaire du Mont Amba où il aurait été admis aux soins intensifs.

401. Le 10 mai 2000, le Rapporteur spécial a envoyé un appel urgent conjoint avec le Rapporteur spécial sur la situation des droits de l'homme en République démocratique du Congo, le Rapporteur spécial sur l'indépendance des juges et des avocats et le Rapporteur spécial sur le droit à la liberté d'opinion et d'expression en faveur de **Freddy Loseke Lisunbu La Yayenga**, l'éditeur de l'hebdomadaire "La Libre Afrique", poursuivi depuis le 31 décembre 1999 pour avoir publié des informations faisant état d'un complot au sein de l'armée contre le Président Kabila. Après avoir été détenu au camp militaire de Kokolo, il aurait été transféré le 25 février 2000 au centre pénitentiaire et de rééducation de Kinshasa (anciennement prison de Makala). Il risquerait une "peine de servitude pénale de dix ans". Il aurait par ailleurs fait l'objet de mauvais traitements pendant sa détention au camp de Kokolo et aurait entamé une grève de la faim.

402. Le 30 juin 2000, le Rapporteur spécial a envoyé un appel urgent conjoint avec le Rapporteur spécial sur la situation des droits de l'homme en République démocratique du Congo et le Président-Rapporteur du Groupe de travail sur la détention arbitraire en faveur des membres de l'organisation "Fraternité nationale des prisons au Congo", les pasteurs **Tshisumpa** et **Nkashama, Jonas Mukamba Kabiata, M. Tshitenge, Christophe Tshimona, Mianda Tshimona** (f), **Kabolo, Pierre Monbelle, Mieke Rang** (ressortissante des Pays-Bas) et **Caroline Pare** (ressortissante du Royaume-Uni). Ils auraient tous été arrêtés le 23 juin par des membres des services de sécurité dits de la détection militaire des activités antipatrie (DEMIAP). Ils seraient détenus à la DEMIAP de Kinshasa.

403. Le 13 juillet 2000, le Rapporteur spécial a envoyé un appel urgent conjoint avec le Rapporteur spécial sur la situation des droits de l'homme en République démocratique du Congo et le Président-Rapporteur du Groupe de travail sur la détention arbitraire concernant **Norbert Endonto Mokwele**, qui aurait été arrêté et conduit au cachot de la DEMIAP le 28 juin 2000 en raison de ses soi-disant activités avec la rébellion.

404. Par une lettre datée du 25 octobre 2000, le gouvernement a informé le Rapporteur spécial que dès l'annonce de cette arrestation, Norbert Edonto Mokwele avait reçu la visite de deux agents du Ministère des droits humains, qui avaient vérifié la régularité des procédures.

405. Le 17 octobre 2000, le Rapporteur spécial a envoyé un appel urgent conjoint avec le Rapporteur spécial sur la situation des droits de l'homme en République démocratique du Congo en faveur de **Maurice Dawana Falanga**, ancien conseilleur chargé des opérations auprès de l'ancien administrateur général en chef de l'ANR, qui aurait été arrêté le 7 septembre à Salongo à Kinshasa Lema par des agents de l'ANR. Il serait détenu au secret.

406. Par une lettre datée du 25 octobre 2000, le gouvernement a indiqué que les mesures appropriées et les vérifications d'usage ont été prises de manière à garantir les droits fondamentaux de Maurice Dawana Falanga.

Observations

407. The information consistently reaching the Special Rapporteur amply justifies and continues to justify the findings of the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo, in his report to the General Assembly at its fifty-fifth session (A/55/403 of 20 September 2000, para. 57): "La torture est pratiquée de façon brutale et systématique, en particulier par le Groupe spécial de sécutité présidentielle, mais également par l'Agence nationale de renseignements (ANR). L'existence tolérée de lieux de détention secrets, qui échappent à tout contrôle, aggrave ce fléau. ... Il est d'autant plus facile de se livrer à des actes de torture qu'il n'existe pas de registre public des détenus dans les prisons de la Détection militaire des activités anti-patrie (DEMIAP)." It is particularly disturbing and regrettable that the Human Rights Office of the Democratic Republic of the Congo is only authorized to enter places of detention that are prisons.

Djibouti

408. By letter dated 8 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1999 regarding which no reply had been received.

Ecuador

409. Con fecha 16 de agosto de 2000, el Relator Especial notificó al Gobierno que había recibido información sobre los siguientes casos.

410. **Julio Edison Román Muñoz** habría sido detenido el 3 de abril de 2000 en Quito por miembros de la policía. Posteriormente habría sido llevado a la Unidad de Vigilancia del Sur, donde el nombrado habría sido amenazado por el cabo Salguero de la Brigada 21.3. Estos hechos serían motivados por una denuncia que él habría presentado sobre graves maltratos y torturas que miembros de la policía le habrían infligido en febrero de 2000 (véase también infra).

411. **Cristian Padilla, Marcelo Arreaga, Edgar Tipán, Luis Santiago Moreno, Edison Sandoval** y **Carlos Echeverría,** estudiantes de la Escuela Politécnica Nacional de Quito, habrían sido detenidos el 15 de junio de 2000 por alrededor de 30 policías que habrían entrado en la Ciudad Universitaria durante una huelga general observada en todo el país. Durante la detención habrían sido golpeados y maltratados. Marcelo Arreaga habría sido golpeado con un garrote hasta que éste se rompió en su espalda. Edison Sandoval habría sufrido pisotones en su espalda y glúteos. Un subteniente se habría puesto de pie sobre la espalda de Luis Santiago Moreno y le habría producido una fisura en la nariz y una incapacidad física de más de 30 días. No habrían sido aceptados en el Centro de Detención Provisoria (CDP) por los golpes y hematomas que presentarían. El subteniente Briones habría manifestado en el informe policial que dichos golpes serían resultado de la manifestación.

412. Por la misma carta, el Relator Especial recuerda al Gobierno que no se ha recibido respuesta alguna sobre los casos transmitidos en 1998 y 1999.

Urgent appeals

413. El 12 de mayo de 2000, el Relator Especial envió un llamamiento urgente conjuntamente con el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias sobre **Julio Edisón Román Muñoz**, quien fue detenido el 28 de febrero en Quito acusado de tráfico de drogas. Cuando estaba siendo trasladado por miembros de la policía a la comisaría de Atahualpa, habría sido golpeado y obligado a declararse culpable de la acusación. Habría sido puesto en libertad. Coincidiendo con la apertura del proceso contra los dos policías acusados, habría sido de nuevo detenido por la policía y trasladado a la Oficina Antinarcóticos de Pichincha.

414. El 24 de mayo de 2000, el Relator Especial envió un llamamiento urgente sobre miembros de un grupo armado que habrían sido detenidos por el ejército el 13 de mayo de 2000: **Benjamín Álvarez, Herney Hernández**, **Marilú Marcillo** (de 15 años), **José Leal Hernández** (colombiano), **Rubiela Margoth Díaz Alvarez** (colombiana) y un niño de un año de edad. Habrían sido detenidos luego de un enfrentamiento con armas de fuego entre una patrulla del ejército y un grupo recientemente constituido conocido como Fuerzas Revolucionarias Ecuatorianas - Defensores del Pueblo (FARE-DP) en la selva amazónica ecuatoriana en la Provincia de Orellana, entre la ciudad de Francisco de Orellana y Cononaco. Habrían sido conducidos a las celdas de la prisión de la Policía Judicial en la capital, Quito. Herney Hernández tendría quemaduras en la lengua que podrían haber sido provocadas por un choque eléctrico, y ambos tendrían golpes en el rostro. **José Humberto Leal Martínez** y **Marilú Marcillo Rivas** (de 15 años) habrían recibido disparos durante el enfrentamiento y estarían recuperándose bajo custodia en el hospital público Eugenio Espejo, en Quito.

Egypt

415. By letter dated 18 August 2000, the Special Rapporteur advised the Government that he had received information on the two following individual cases.

416. **Sami 'Amer Hassan Ahmad** was reportedly blindfolded with his hands tied behind his back and beaten with a stick, including on the soles of his feet (falaka), in a police station in the al-Muski district of Cairo on 20 September 1999. On 22 September, he was said to have been released and to have filed a complaint, despite having been threatened.

417. **Ahmed Muhammad Mahmoud Tamam** was reportedly taken from his home on 19 July 1999 to 'Omraniya police station in Cairo following an argument with a neighbour. He was allegedly beaten by police officers. On 21 July, he is said to have died in a police vehicle as a result of having been beaten and of having had his head severely hit.

418. By the same letter, the Special Rapporteur reminded the Government of a number of cases transmitted in 1997, 1998 and 1999 regarding which no reply had been received. By letters dated 8 March and 31 October 2000, the Government responded on all pending cases which had been transmitted in previous years (see below).

Urgent appeals and replies received

419. On 6 June 2000, the Special Rapporteur sent an urgent appeal on behalf of **Mohammad Shaaban Mohammad Hassanein**, an Egyptian national resident in Denmark, who was reportedly arrested in Pakistan in mid-March on suspicion of links to Islamist armed groups and was returned to Egypt on 25 or 26 May 2000. Furthermore, **Ayman Kamal al-Hin**, who was reportedly returned to Egypt at the beginning of May after his detention in Lebanon since January 2000. In 1993, an Egyptian military court had reportedly sentenced him in absentia to three years' imprisonment on charges of involvement in an armed Islamist group. Both were believed to be held in incommunicado detention in the State Security Investigation (SSI) Department in Lazoghly Square in Cairo.

420. By letter dated 23 August 2000, the Government requested further information on the above-mentioned persons in order to prepare a complete reply about their situation.

Follow-up to previously transmitted communications

421. By letters dated 8 March and 31 October 2000, the Government responded to all pending individual cases that had been transmitted by the Special Rapporteur in previous years.

422. Concerning Ashrad Uwais Sulayman (E/CN.4/1998/38/Add.1, para. 91), the Government stated that he was a terrorist from Bani Sueif Governorate who had previously been charged in 1994. A ministerial order was issued for his arrest under the Act concerning the state of emergency in order to prevent him engaging in terrorist activities. There is no evidence to substantiate his allegations of torture.

423. Concerning Mohamed Mohammed Ibraheem Toaima (real name: Ahmad Mohammed Ibraheem Mohammed), (ibid., para. 92), the Government stated that he is a terrorist from Al-Qalyoubiya Governorate. A ministerial order was issued for his arrest under the Act concerning the state of emergency in order to prevent him engaging in terrorist activities. There is no evidence to substantiate his allegations of torture.

424. Concerning Moshen Said Abou-Zeid, (ibid., para. 97), the Government indicated that an investigation had been carried out by the Department of Public Prosecution. On 14 April 1996, a captain found responsible for the assault was sentenced to a penalty of deduction from his salary of the equivalent of five days' pay.

425. Concerning Amal Faroug Mohammad al-Maas and her husband, Ahmad Mohammad Ahmad al-Sayyid (E/CN.4/1999/61, para. 193), the Government indicated that this latter is a member of the terrorist organization Al-Gama's Al-Islamia and received a life sentence with hard labour in the case of the attempted assassination of the Minister of Information. Following her husband's arrest, she was summoned for questioning. On 2 May 1994, she submitted a complaint through her lawyer to the Department of Public Prosecutions for beatings, assault and unlawful detention. An investigation was carried out. Nothing was found to substantiate the complaint.

426. Concerning Tamer Mohsen Ali (ibid., para. 195), the Government indicated that he was arrested on 21 January 2000 in flagrante delicto of stealing. He was taken into custody under a decision of the Office of the Public Prosecutor. While in police custody, he fainted and was immediately transferred to Al-Dawari Hospital in Mansoura, where he died as a result of a sharp drop in blood pressure. No complaint has been made on his behalf.

427. Concerning Waleed Zanati Shaaban (ibid., para. 197), he was arrested on 16 December 1997 during an affray, but the Office of the Public Prosecutor decided to discharge him. On 17 December, he was re-arrested in the Muharram Bek police district. An autopsy was performed. No trace of torture was found.

428. Concerning Mohamed Ali Saad (ibid., para. 198), this person could not be traced by the Government.

429. Concerning Mohammed Dahi Hemeida (ibid., para. 199), he was arrested on 30 August 1997. There is no evidence to substantiate his allegations of torture while at the police station.

430. Concerning Said Abdel-Aziz Mohammed Farraq and his sons Saeed and Wael (ibid., para. 200), there is no evidence to substantiate his allegations of torture. The Government confirmed that he was charged in a number of different cases.

431. Concerning Gamal Shawki Othman (ibid., para. 201), the Government indicated that he has a long criminal record and was arrested on 14 January 1998 on suspicion of illegally carrying a firearm and drug possession. There is no evidence that he was tortured while at Al-Waily police station.

432. Concerning Nazema Mohammed Mohammed Wagdi, Mohammed Mohammed Mohammed Wagdo, Khadra Mohammed Abdel-Wahab and Fatma Mohammed Abdel Aal Amer (ibid., para. 202), the Government indicated that they had resisted arrest on 17 May 1996 while police officers were searching them on suspicion of attack and theft. They later filed an administrative complaint at El-Hamoul police station against the police officers, alleging assault and battery. An investigation was carried out by the Department of Public Prosecutions, which decided to close the case when it established that the correct criminal procedure had been followed during the above-mentioned arrest. In particular, forensic medical examinations concluded that the injuries sustained resulted from having resisted arrest.

433. Concerning Shukri Mahmoud Farrag (ibid., para. 203), the Government stated that he was released on the same day as his arrest. The Egyptian Human Rights Organization, currently being established, submitted a complaint to the Public Prosecutor regarding his detention and torture at El-Gamaleya police station from 11 to 16 November 1997. The Department of Public Prosecutions investigated the cases, and the complainant underwent a forensic medical examination that revealed no trace of any injury indicative of criminal violence dating from the time of this incident.

434. Concerning Abdel-Salaam Hassan Hassan Omar (ibid., para. 205), the Government indicated that he was a member of a terrorist organization in Alexandria Governorate. He was arrested in 1997 to prevent him from engaging in terrorist activities under the law governing the state of emergency. He was discharged the same year following his renunciations of extremist and terrorist activities. There is no evidence to substantiate his allegations of torture.

435. Concerning Hossam Mostafa Qutb Mostafa (ibid., para. 206), he was arrested on 31 March 1997 in flagrante delicto of stealing a car. He was also found to be in possession of a prohibited narcotic substance. He is serving a custodial sentence. There is not evidence to substantiate his complaint of ill-treatment.

436. Concerning Adel Ahmed Suliman Ahmed (ibid., para. 209), the Government indicated that he had been charged in 27 different cases. He is a fugitive wanted by the police. He had filed a complaint with the Agouza Office of the Public Prosecutor against officers while in police custody. The Office of the Public Prosecutor decided to take no further action on the case because the complaint was unfounded.

437. Concerning Medhat Mohammed Zedan (ibid., para. 212), there is no evidence to substantiate his allegations that he was assaulted while in custody at El-Zawya El-Hamra police station on 12 October 1997.

438. Concerning Aysha Soudi Ibrahim (ibid., para. 214), she was arrested by police officers of El-Gamaliya police station pursuant to a decision by the Office of the Public Prosecutor. There is no evidence to substantiate her allegations.

439. Concerning Mohamed Abdel-Lateef Mostafa (ibid., para. 216), he was arrested on 5 January 1997 in flagrante delicto. The Office of the Public Prosecutor decided to remand him pending investigations. There is no evidence to substantiate his allegations of torture.

440. Concerning Ayman Abdel-Wahid Ibrahim Marie, (ibid., para. 217), the Government confirmed that an altercation had occurred between him and two officers of the Kafr el-Sheikh police station. It indicated that an investigation had been opened by the Department of Public Prosecutions, which recommended that the two officers against whom the complaint had been brought be sanctioned. They were subsequently demoted for breach of official duty, disobeying instructions and discreditable conduct. The Government also indicated that a forensic medical report found injuries dating from the time of the incident caused by punches and kicks.

441. Concerning Ashraf Hisham Mohammed (ibid., para. 218), he was arrested by officers of the Matariya police station on 20 August 1997 and was discharged from the police station on the same day. On 23 August 1997, his father took him to Demerdash University Hospital for treatment for injuries to the head sustained when he fell to the ground in an epileptic fit. There is no evidence to substantiate his allegations that his injuries were caused while in police custody.

442. Concerning Salim Saleh Ibrahim al-Qatami, Mostafa Sahel Ibrahim el-Qatami, Abdel-Kareem Abdel-Kareem and Hussein Abdel-Kareem (ibid., para. 219), they were arrested by the Qalyoub criminal investigation unit on suspicion of theft on 20 January 1998. They were later discharged. There is no evidence to substantiate their allegations of torture while in police custody.

443. Concerning Ahmed Fouad Ibrahim (ibid., para. 220), this person could not be traced by the Government.

444. The Government provided the following information with respect to alleged deaths in prisons as a result of medical negligence (E/CN.4/2000/9, para. 359). The Government noted that no complaint was filed and that the circumstances of the deaths were recorded in a report given to the Office of the Public Prosecutor, which gave permission for the burial of the remains.

445. Concerning Hassouna Gaber Abdel Latef, he died on 23 January in Abu Zabel Prison Hospital as a result of a sharp drop in blood pressure and respiration. There was no evidence to substantiate the allegation that his death was due to medical neglect.

446. Concerning Magdi Mohammed Abdul Maqsoud Afifi, he died on 5 August 1998 in Abu Zabel Prison Hospital as a result of a sharp drop in blood pressure and respiration, and the cessation of his heart and brain functions. It is suspected that he suffered from tuberculosis. He had been provided with the adequate medical treatment.

447. Concerning Sa'eed Mohammed Mohammed al-Malihi, he died on 28 March 1998 as a result of a sharp drop in blood pressure and respiration. Prior to his death, he had been treated at Manyal University Hospital for cirrhosis, from which he had been suffering prior to his detention in Liman Tura prison.

448. Concerning Fathi Abdul Aziz Abdul Wahid Abdalla Morsy (real name: Abdul Aziz Abdul Wahid Abdalla Morsy), he died on 6 January 1998 as a result of a sharp drop in blood pressure and respiration. He had been treated at the Cairo National Cancer Hospital for cancer of the throat and had undergone an operation.

449. Concerning Abu Bakr Sa'ad Mahmoud, he died on 23 February 1998 as a result of a sharp drop in blood pressure. He had been admitted to Liman Tura Prison Hospital on 8 February to be treated for acute circulatory problems. On 21 February, he had been transferred to Manyal University Hospital and placed under intensive care, but died immediately afterwards.

450. Concerning Fathi Ali Orman (real name: Fathi Ali Orfan al-Sayyid), he died as a result of a sharp decline in blood pressure. He had been treated in Al-Wadi al-Jadid Hospital for numerous chest ailments from which he had been suffering prior to his detention.

451. Concerning Fathi Abdel-Aziz Ibrahim, he died on 19 April 1998 from a coronary thrombosis that led to a fall in blood pressure. He had been transferred to hospital.

452. Concerning Mahomoud Nour Eddine al-Sayid Eid Soliman, he died on 16 September 1998 of haemorrhagic viral meningitis. Just before his death, he was transferred to the prison hospital, where he received appropriate medical treatment.

453. Concerning Hamid Fathi Abdul Aziz and Ali Abdel Nasser, it was not possible to trace them. The Government provided further information on Hamid Mamduh Abd al-Mo'ez, who died on 1 July 1998 as a result of a sharp drop in blood pressure after having been admitted to Damanhour Teaching Hospital to be treated for a brain haemorrhage and pneumonia. He was provided with the appropriate medical treatment. As his condition had failed to improve, he had been transferred to the Alexandria University Hospital, where he had been placed under intensive care.

454. The Government provided the following information with respect to the allegations of detention and torture of Coptic Christians from al-Kush village during the investigation of the murder of two Copts in August 1998 (E/CN.4/2000/9, para. 360).

455. Concerning Arsel Sahiboob, there was no evidence that a person of this name was summoned during the investigation. The Government provided information on Imad Shaiboob William Arsel, aged 10, the son of Shaiboeb William Arsel (see below), who had not been summoned during the investigation.

456. Concerning Shaiboob William Arsel, the Government indicated that there was no evidence that he was hung or subjected to electric shocks during the investigation. He was the person accused in the above-mentioned case and was eventually sentenced to 15 years' hard labour.

457. Concerning Gamal Moris Shukr-Allah, aged 3, there was no evidence to substantiate his father's allegations that he received a blow on the back that left visible marks. According to a forensic medical report, frictional abrasions on the lower part of the back due to a scraping of his back with a solid object like a coin were found.

458. Concerning Abdu Mikhael Miliki, he was a witness for the prosecution. He complained of having been tortured to the Prosecutor of the Court of Major Jurisdiction in Sohag, but the Office concluded that his allegations were unfounded.

459. Concerning all other persons mentioned in the communication of the Special Rapporteur, the Government indicated that, when questioned at the Office of the Public Prosecutor, they denied that they had been injured and made no allegations of torture. They also denied that they had witnessed such acts.

460. The Government provided the following information with respect to the alleged deaths in custody as a result of torture (ibid., para. 361).

461. Concerning Sa'eed Sayid Abdel Aal Salim, he was arrested on 17 April 1999. While in police custody, he fainted and was immediately transferred to Um al-Misriyin General Hospital, where he died. A medical certificate records no trace of external injuries or torture. The cause of death was a sharp drop in blood pressure and heartbeat.

462. Concerning Ahmed Muhammad Mahmoud Tamam, he was arrested on 20 July 1999 in flagrante delicto for burglary. A number of individuals assaulted him after his arrest, causing numerous injuries. He died in the police van on 21 July. According to the medical report, the cause of death was a sharp drop in blood pressure and in his respiration rate. The Government noted that no charges were brought against the police officers or member of the El-Omraniya police station.

463. Concerning Hany Kamal Shawky, he was arrested on 21 April 1999 and died at El-Azbakiya police station. The forensic medical report states that his death was the result of a criminal offence. The case was referred to the Department of Public Prosecutions and a charge of torture leading to death was brought against a criminal investigator and two members of the secret police. They were released on bail. Investigation is still pending and no indictment has yet been issued.

464. Concerning Hamdy Mohamed Askar, he suffered from respiratory problems and fainted on 16 February 1999 while in custody at Mansoura police station. He was transferred to Mansoura General Hospital where he died. A complaint against a police officer who had allegedly assaulted him in January, was filed by his brothers. But, a forensic report stated that death was due to a cerebral aneurysm caused by a recent blow, and not by a blow delivered several weeks before his death.

465. Concerning Amr Salim Mohamed, he suffered a severe attack of faintness and died while in police custody. The forensic report states that the death was caused by a brain haemorrhage and a sharp drop in blood pressure. No trace of torture was found.

466. Concerning Gamal Mohammed Abdallah Mustafa, he was assaulted by some citizens who caught him in flagrante delicto, before being formally apprehended by the police who found him in a poor physical condition. While being escorted to the police station, he fainted and experienced respiratory problems. A doctor was called, but he later died, as a result of the assault, from a sharp drop in blood pressure.

467. Concerning Abdel-Havy Mohamed Abu-Bakr (ibid., para. 363), the Government indicated that he was arrested on 6 February 1998 and taken to Aswan police station. He complained to the Public Prosecutor that he had been tortured, but the investigation failed to confirm his allegations and the case was closed on 25 July 1998 because of lack of physical evidence. He filed a new complaint with the public prosecutor serving Aswan police station on 17 January 2000. Again, the case was closed for lack of physical evidence.

468. Concerning Yousif Sayid Mahmoud (ibid., para. 364), the Government stated that he had filed a complaint with the Kalyoub public prosecutor alleging that he had been tortured while at the Kalyoub police station. An investigation concluded that his allegations were unfounded.

469. Concerning Fathi Basyouni Mohamed, a private lawyer (ibid., para. 365), the Government indicated that he had resisted arrest. The Public Prosecutor decided to disbar him on the charge of assaulting two police officers in the performance of their duties. A case is still pending against him for assault. On the contrary, there is no evidence to substantiate his allegation that he had been assaulted and tortured.

470. Concerning Shaaban Mohamed Abdel-Gawad (ibid., para. 371), the Government indicated that he had been summoned to the Nawa police post (attached to the Shibin al-Qanatir police station) in connection with a murder investigation. During the interview, he fainted and was taken to Shibin al-Qanatir General Hospital, but died. The Office of the Public Prosecutor decided to call in a forensic doctor to carry out an autopsy, which concluded that the cause of the death was a sharp drop in blood pressure as a result of previous pathological trauma. There was no evidence to substantiate allegations that he was tortured while in police custody.

471. Concerning Mohamed Saeed Mohamed (ibid., para. 366), Sayid Abdalla Soliman (ibid., para. 367), Mostafa Gad al-Karim Mostafa (ibid., para. 368), Mhamoud Sami Mohamed, his wife Rabha Ibrahim, Nagwa Fadl Tawfeek and Shaaban Sami al-Rayis (ibid., para. 369), Zenhum Mohamed Badr, Ibrahim Mohamed Badr and Fouda Mohamed Badr, (ibid., para. 370), the Government informed the Special Rapporteur that there was no evidence to substantiate that they were tortured while in police custody. The Government provided information on the charges pending against each of the above-named persons.

472. By letter dated 8 March 2000, the Government informed the Special Rapporteur that a judge had approved the prosecution's decision to refer a lieutenant-colonel and five officers of the Wadi Natroun prison to the Shibin al-Kom Criminal Court on the charge of beating a prisoner awaiting trial, Ahmad Muhammad Muhammad Isa, to death and forging official documents in February 2000. The Government gave details about the prosecution's investigation which led to this decision. The accused remain in custody pending trial.

473. By letter dated 31 October 2000, the Government indicated that the Department of Public Prosecutions (DPP) is a branch of the judiciary. Its members are irremovable and no one may interfere with their work. All forms of torture are classified as serious offences for which the law prescribes severe penalties. The DPP is legally required to investigate all complaints of torture whenever they are filed. Such action must be taken by a member of the DPP whose rank is not lower than that of solicitor-general. Complaints of torture are investigated by the DPP as felonies or serious crimes. All appropriate measures are therefore taken when such a case is investigated. Any confession obtained through torture is invalidated and compensation must be provided to the victim. The defence of torture is the most widespread defence invoked before the DPP and the courts by defendants trying to have the charges against them dropped or seeking acquittal. The courts must therefore determine the soundness and reliability of this defence.

Observations

474. The Special Rapporteur appreciates the diligence with which the Government has sought responses from the relevant authorities on the cases he has submitted in the past. He is extremely troubled, however, by the persistence of the explanation of death in many of the cases as being a "sharp drop in blood pressure", sometimes also of respiration. Professional medical expertise consulted by the Special Rapporteur confirms the Special Rapporteur's suspicion that such symptoms rarely happen spontaneously. They are provoked by prior factors such as trauma and malnourishment. Given that many of the allegations in question concerned alleged medical neglect or severe ill-treatment, the information supplied by the Government, far from alleviating the Special Rapporteur's concerns, tends to reinforce them. Furthermore, the Special Rapporteur notes that there is a tendency in the replies to indicate that the unavailability of continuing

physical sequellae, inevitable after a substantial period of time, or the inability to attribute such sequellae to a specific period of detention are sufficient for a case to be closed. Such an approach puts the burden of proof on the complainant and at an almost unattainable threshold.

475. In the light of the continuing failure of the Government to invite the Special Rapporteur to visit Egypt since he first requested such an invitation in 1996 and of its refusal even to grant access to the Committee against Torture when it conducted its 1991-1994 inquiry, the Special Rapporteur feels that he must make an assessment of the situation on the basis of information reaching him over the years.

476. Regrettably, despite the passage of six years since the inquiry and four years since the adoption of the report of the Committee against Torture (A/51/44, paras. 180-222), the Special Rapporteur can find no better way to express that assessment than to use the language employed by the Committee (ibid., paras. 219-220), substituting reference to his own function for that of the Committee:

> The Special Rapporteur considers that the information received with regard to allegations of the systematic practice of torture in Egypt appears to be well founded. His conclusion is based on the existence of a great number of allegations, which come from different sources. These allegations largely coincide and describe in the same way the methods of torture, the places where torture is practised and the authorities who practise it. In addition, the information comes from sources that have proved to be reliable in connection with other activities of the Special Rapporteur.
>
> On the basis of this information, the Special Rapporteur is forced to conclude that torture is systematically practised by the security forces in Egypt, in particular by State Security Intelligence, since in spite of the denials of the Government, the allegations of torture submitted by reliable non-governmental organizations consistently indicate that reported cases of torture are seen to be habitual, widespread and deliberate in at least a considerable part of the country.

El Salvador

477. By letter dated 8 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1996 regarding which no reply had been received.

Observations

478. The Special Rapporteur considers it appropriate to bring to the attention of the Commission the finding of the Committee against Torture on its consideration of the initial report of El Salvador under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in May 2000, namely, that "[d]uring the period covered by the report [1996-1999], there have been numerous acts of torture and cruel, inhuman or degrading treatment, as well as disproportionate or unnecessary use of force by police and prison personnel, according to reports by the Office of the Procurator for the Protection of Human Rights and other reliable sources". (A/55/44, para. 164.)

Equatorial Guinea

479. By letter dated 8 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1999 regarding which no reply had been received.

Urgent appeals

480. El 28 de marzo de 2000, el Relator Especial envió un llamamiento urgente conjuntamente con el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias sobre la situación siguiente. Alrededor de 50 prisioneros, en su mayoría pertenecientes a la etnia Bubi, habrían sido trasladados el 3 de marzo de la prisión de Malabo a la prisión de Evinayong. Este traslado hace imposible que los familiares les proporcionen la comida y las medicinas que tienen que procurarse. **Miguel Vanid**, **Cesar Copoburu**, **Aurelio Losoha**, **Alejandro Mbe Bita**, **Emilio Ribas Esado**, **Gregorio Bomugasi** y **Milagrosa** se encontrarían enfermos y no estarían recibiendo el tratamiento adecuado.

481. El 2 de junio de 2000, el Relator Especial envió un llamamiento urgente conjuntamente con el Representante Especial de la Comisión de Derechos Humanos encargado de examinar la situación de los derechos humanos en Guinea Ecuatorial sobre **Rodolfo Ndong Angue**, **Rubén**, **Gabriel Nvé Meñana** (Gabi) y **Marcelo Seme Nzé**, quienes estarían acusados de preparar un golpe de Estado contra el régimen guineano. Habrían sido torturados en la madrugada del 30 de mayo de 2000 por el Director General de la Seguridad Presidencial. Estarían detenidos en la cárcel de "Black Beach" desde aproximadamente un mes sin acusación formal. Marcelo Seme Nzé presentaría rotura de fémur. Se ha expresado el temor de que esas personas puedan ser torturadas nuevamente y existiría riesgo sobre sus vidas ya que no recibirían asistencia médica apropiada.

Observations

482. As the Special Rapporteur indicated in his oral presentation of his report to the Commission at its fifty-sixth session, the Government issued an unsolicited invitation to the Special Rapporteur to visit the country. By letter dated 12 December 2000, the Special Rapporteur accepted that invitation with a view to a joint visit with the Special Representative on the situation of human rights in Equatorial Guinea.

Eritrea

483. By letter dated 5 October 2000, the Special Rapporteur advised the Government that he had received information on **Wolde Hagos**, an Ethiopian working in Asmara, who was reportedly arrested in early June 1998 on the day that the Asmara airport was bombed. He was allegedly taken to the 1st police station in Asmara where he was detained for a month. During that period he was allegedly beaten by the police while his hands were tied behind his back.

484. By letter dated 23 October 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1999 regarding which no reply had been received.

Ethiopia

485. By letter dated 5 October 2000, the Special Rapporteur advised the Government that he had received information on the following individual cases.

486. **Jirma Tadhi** was reportedly detained in Boku Luboma military camp from May to November 1996, from 2 July 1998 to 6 December 1998 and from June 1999. It is reported that he was subjected to beating, being threatened with execution and genital beating.

487. **Galma Jarso** was reportedly detained at the Boku Luboma military camp from August 1992 to January 1993 and again from April 1995 to October 1996. He was allegedly beaten, particularly on his genitals, and subjected to mock executions. He was subsequently detained again on 24 September 1997 first at Boku Luboma and then at the Moyle military camp until December 1999. During his detention he was allegedly subjected to similar treatment and his family were threatened and beaten.

488. **Fu'ad Abbafogi Abbajobir**, a former journalist and worker for the Oromia Development Association, from Jimma, was reportedly detained in May 1999. On 27 or 28 May, Fu'ad Abbajobir, his aunt and brother were arrested by soldiers at their home and taken to Jimma military camp. Once there they were interrogated and accused of receiving information from Saudi Arabia to pass onto the Oromia Liberation Front. He was allegedly slapped on the face with the butt of a gun, the end of which was then put up his nose to coerce him into providing information. During his month in detention he was kept in a dirty cell and for the first 13 days was only allowed to go to the toilet on two occasions. It is alleged that his brother and aunt were moved from the Jimma military camp in February 2000 and have since disappeared.

489. **Ahmed Hassan Mohamud**, a Sihiya clergyman, was allegedly arrested in Dhagxbuur in mid 1998 and detained in Qabredahar. He was reportedly transferred to an underground cell in East Harage, near Dire Dawa, where he was allegedly tortured and lost both of his testicles as a result. Fellow detainees, **Bashir Muse Adan**, an Ogadeni of Auliham descent, **Bina Ja'far**, a Habar Gedir, and **Abdi Noor Farah**, an Ogadeni of Bah Geri origin, reportedly died in detention following torture. Two are alleged to have died following complications from testicular torture and one from head injuries. Their bodies are said to have been left in their communal cells for 17 days.

490. By letter dated 8 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1997 and 1999 regarding which no reply had been received.

Urgent appeals and replies received

491. On 20 January 2000, the Special Rapporteur sent an urgent appeal on behalf of **Tamrat Layne**, former Prime Minister, and his co-accused **Shadia Nadim Kassim** (f), who were said to have been detained since October 1996 in the Central Prison in Addis Ababa on charges of corruption and embezzlement. They have allegedly been confined to dark cells and forced to stand up for extended periods of time and beaten several times during their detention.

492. By letter dated 29 February 2000, the Government indicated that the allegations referred to above, in particular that they are confined to a dark cell, were unfounded. No complaint has been filed by their lawyers. They have access to regular medical check-ups and are allowed to have regular visits.

493. On 8 May 2000, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Belachew Tadesse, Fita Kanaa, Hika Wolteji, Sileshi Ayana, Aberra Gobena** and two pupils, **Abdissa Aberra** (son of Aberra Gobena) and **Yonatan Dinagde**. They were reportedly arrested during the last two weeks of April 2000 in Nejo and other towns of the Oromia region, following demonstrations against the Oromia regional government in western Ethiopia. They were reportedly held incommunicado.

494. By the same urgent appeal, the Special Rapporteur intervened on behalf of teachers from other towns in Oromia, including **Tesfa Burayu**, Nekemte secondary school director, and his wife, **Tesfa Atomsa, Wolde-Yesus Mengesha, Marga Legesse** and **Kano Weyessa**, and the pupils **Million Belema, Rikitu Chemeda, Berhanu Fufa, Fisseha Negesse, Galana Neda, Adugna Tujo, Hachalu Zembaba** and **Duguma Galissa** (all aged between 17 and 20) who were believed to be detained without charge. They were reportedly arrested during a wave of arrests following demonstrations that started on 7 March 2000 after students in Ambo town allegedly sent a delegation to the Oromia regional government, accusing it of inaction. The police are said to have beaten the students when they protested, particularly at Ambo secondary school. The police reportedly shot dead a 19-year-old student, Getu Diribe Benti, and wounded many others. Over 100 students were reportedly arrested, beaten and denied food while in custody. On 2 April, at least one student, Diribe Jifara (f), was shot dead, and others were wounded during demonstrations.

France

495. Par une lettre datée du 9 octobre 2000, le Rapporteur spécial a informé le gouvernement qu'il avait reçu des renseignements concernant les deux cas individuels suivants.

496. **Françoise Grimaldi** et **Eric Daubert** auraient été maltraités par des policiers de Toulouse dans la nuit du 11 au 12 août 1999. Une patrouille de police leur aurait passé les menottes avant de les emmener au commissariat où Eric Dabert aurait reçu des coups de pied alors qu'il gisait à terre. Françoise Grimaldi aurait alors vivement protesté, en réponse de quoi, elle aurait reçu deux coups de poing dans le visage qui auraient sérieusement endommagé sa dentition.

497. **Gaël Le Pinic**, un ancien policier, aurait été frappé le 9 septembre 1999 par un gardien de prison de la maison d'arrêt de Fresnes, où il était détenu en préventive pour une affaire de drogue. À son retour de l'hôpital pénitentiaire où il avait reçu des soins suite à une tentative de suicide, il aurait demandé à prendre une douche, ce qui lui aurait été refusé. Il aurait alors protesté. Suite à ces protestations, il aurait reçu des coups de poing dans le visage, aurait été frappé au visage avec un trousseau de clefs. Une enquête administrative interne aurait conclu que les gardiens n'auraient utilisé que la force strictement nécessaire.

Gambia

498. By letter dated 8 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998 regarding which no reply had been received.

Georgia

499. By letter dated 5 October 2000, the Special Rapporteur advised the Government that he had received information according to which the system in place to ensure investigation of torture complaints is inefficient and partial. Although a number of police officers have been arrested or disciplined for physical abuse, this is said to occur only in extreme cases, such as those resulting in death. Prosecutors have reportedly been reluctant to open a criminal case at all, or have closed the case for alleged lack of evidence after what appears to be a perfunctory investigation. Many alleged victims simply do not believe that their complaints will result in a rigorous, comprehensive and impartial investigation. Others are said to be deterred from lodging complaints by a fear of reprisals, believing that any attempt on their part to bring those responsible to account, or simply to stop the ill-treatment, will only result in greater abuses against them or their relatives.

500. Most allegations have related to periods of short-term detention by the police, when beatings are sometimes reported to have been accompanied by extortion, with relatives facing financial or other demands in exchange for the detainee's release, or during the period of pre-trial detention, when detainees have alleged the use of physical and psychological duress in order to force confessions or obtain other information. Lawyers and family members have reportedly been denied access to detainees by the police and investigators.

501. In particular, the Special Rapporteur transmitted information on the following individual cases.

502. On 29 May 1999, police from the Gldani district of Tbilisi reportedly forcibly broke up an open-air meeting of an **evangelical Christian group**. Church members, including the pastor of the Madli (Grace) church, **Zaal Tkeshelashvili**, and his wife **Nino**, were severely beaten by the police, including the Assistant Police Chief of the district. A group of 20 members of the congregation are said to have gathered near the Achmeteli metro station after the meeting was dispersed by the pastor. The group was reportedly blocked by three police cars containing some 12 officers. The police attempted to detain the pastor and his wife but were prevented from doing so by the other church members present. Members of the group were then allegedly beaten and kicked for about 10 minutes. **Gocha Lalebashvili** was allegedly thrown to the ground and kicked in the head and face. On 17 August 1999, a judge is reported to have found in favour of the police, ruling that their actions to break up the meeting were appropriate. Pastor Zaal Tkeshelashvili lodged an appeal with the Tbilisi regional court, but it was reportedly rejected on 10 October 1999. No criminal charges are believed to have been laid in connection with the alleged assaults.

503. **Members of a Jehovah's Witness congregation** are said to have been assaulted with iron crosses and wooden clubs by some 200 radical supporters of the Georgian Orthodox Church, known as the followers of Father Basil Mkalavishvili, while they were holding a Sunday service on 17 October 1999. A few adherents escaped during the attack and reported it to two local police stations, but the police allegedly refused to come to their aid or provide protection. Fifteen worshippers reportedly needed hospital treatment, including **Fati Tabagari,** who suffered a temporary loss of vision after she was struck on the head. The police are believed to have opened a criminal case after the Jehovah's Witnesses lodged a complaint on 18 October, and laid charges against Father Basil Mkalavishvili.

504. **Vladimir Begeluri** and **Georgi Todua**, two Jehovah's Witnesses, were allegedly assaulted by followers of Father Basil Mkalavishvili in the Gldani district of Tbilisi on 16 January 2000. They reported the assault to the Gldani district police and procurator's office. No action is said to have been taken by the authorities.

505. It is reported that, on 16 and 17 August 2000, a mob of 80 followers of Father Basil assaulted **several Jehovah's Witnesses**, a Canadian lawyer, **Warren Shewfelt**, and journalists who were attending at the Gldani district court the trial of a woman accused of participating in an earlier violent attack on Jehovah's Witnesses. The security guards who were present did not react. On 23 August, a police investigator at the Nadzaldevi district police station told one of the victims of the 17 August attack, **Giga Bokeria**, that he would likely be charged with hooliganism. Giga Bokeria is said to be working for the Liberty Institute, a non-governmental organization dedicated to defending freedom of expression.

506. **Giorgi Shiukashvili**, on behalf of whom the Special Rapporteur intervened on 29 November 1999 (see E/CN.4/2000/9, para. 458), is said to have faced continuing intimidation and harassment in connection with his allegations that he was beaten and ill-treated in detention by Tbilisi police officers. When his case came to trial in January 1999, at Gldani district court in Tbilisi, he was reportedly acquitted and released from custody in the courtroom, reportedly in part because of the allegations of torture. Although a criminal case was said to have been opened against two police officers for physically assaulting him, nothing is said to have been done to pursue the prosecution of the officers concerned. It is alleged that Giorgi Shiukashvili was briefly detained on 25 May 1999 at Mtatsminda district police station, and that an officer there threatened to force him out of Tbilisi unless "he stopped fighting against the police".

507. **Giorgi Gogsadze** was reportedly summoned to the Gldani district police station in Tbilisi in May 1999 and questioned about the whereabouts of a relative who was suspected of murder. After he failed to provide any information, he was allegedly beaten by six police officers. The beatings were said to have been filmed on video.

508. An elderly man known as **Tqemaladze** was allegedly beaten by traffic policemen in the city of Rustavi. A criminal case was reportedly opened against the police officers for "exceeding their authority" under article 187 of the Georgian Criminal Code.

509. **Georgi Kapanadze**, a journalist with the newspaper Resonansi, and **Sergey Belousov**, a photographer, were allegedly assaulted by officers from division three of the Mtskheta district traffic police in Tbilisi on 14 October 1999. They were said to have been assaulted after they intervened on behalf of another person, whom the police had reportedly beaten severely.

510. **Davit Vashaqmadze** and **Zaza Buadze** were reportedly asked for their documents while in a car on Tavisupleba Square in Tbilisi on the evening of 13 November 1999. Two police officers are said to have pulled the two men out of the car and started to beat them. Several other police officers also reportedly joined in the beating. They were then told that they would be taken to Mtatsminda police station, but were reportedly instead taken to a location outside the city centre, where the beatings are said to have continued. Davit Vashaqmadze is said to have suffered multiple fractures and other serious injuries, and to have died in hospital two days later. An investigation was reportedly opened by the Tbilisi City Procurator's Office.

511. **Dato Natelashvili** was allegedly beaten at the temporary detention facility of Tbilisi Main City Police Department over a period of two days after being transferred there from the Interior Ministry's investigation-isolation prison No. 1 (Ortachala prison) on 19 November 1999. At the station, he was allegedly subjected to electric shock treatment in order to force him to confess to a murder. During his detention at the Main City Police Department, he was said to have been denied access to his family and lawyers.

512. **Jincharadze** and **Abashidze**, journalists working for the television station of the autonomous region of Ajaria, had reportedly travelled to Qvareli, in the eastern region of Kakheti, in order to cover the second round of the Georgian parliamentary elections set for 14 November 1999. On 12 November, they were allegedly assaulted by Qvareli police.

513. **Zaza Tsotsolashvili** is said by the police to have thrown himself from the sixth floor window of the Ministry of Internal Affairs building in Tbilisi on 4 December 1999. He was reportedly taken to hospital, but died shortly afterwards the same day. The Ministry of Internal Affairs has reportedly initiated an investigation, and criminal proceedings have also been instituted by the Krtsanisi District Procurator's Office in Tbilisi.

514. **Ivane Kolbaya** reportedly fell to his death on 22 March from the fifth floor window of the Tbilisi Central Police Department while being questioned by police officers about alleged thefts. His death was said to have been regarded officially by police as suicide, although the head of the Georgian forensic medical centre, is reported to have said that forensic medical examiners did not have the capacity to determine conclusively whether the trauma marks they found on Ivane Kolbaya's body were the result of the fall or were sustained prior to his death.

515. **Irakli Tshigladze**, aged 14, **Nick Kutelia** and **Emil Aivazashvili**., both aged 15, were said to have been arrested on 20 December 1999 and detained at the Mtatsminda police station. They were allegedly beaten in the police car taking them to the police station and at the police station. They were reportedly held in separate rooms and forced in the absence of their parents or their lawyers to write confessions that they had robbed several cars. On the morning following the arrests lawyers at the station are reported to have raised these allegations with the police department and the prosecutor's office.

Observations

516. The information reaching the Special Rapporteur over the years is disturbingly consistent with the general allegation summarized in paragraphs 499 and 500 above. The Special Rapporteur urges the authorities thoroughly to review the capacity of the institutions in place to prevent, investigate and punish acts of torture and ill-treatment by law enforcement officials and to make the reforms necessary to address this problem.

Germany

517. By letter dated 5 October 2000, the Special Rapporteur advised the Government that he had received information on the two following individual cases, to which the Government responded by letter dated 8 December 2000.

518. **Mehmet Korkmaz**, a Turkish citizen of Kurdish ethnic origin was allegedly ill-treated by four officers of the Stuttgart Federal Border Police during an attempted forced deportation from Stuttgart airport to Turkey on 11 May 1999. He was allegedly repeatedly kicked. He was then taken to a medical centre in Karlsruhe, where he was treated for his injuries and found to have received at least 20 bruises. The police officers, three of whom were reportedly temporarily suspended from service during the investigation into the incident, have reportedly maintained that the detainee's injuries were self-inflicted.

519. The Government confirmed that coercive measures had to be applied in order to make him move up the gangway as he announced at that time and for the first time that he was not prepared to return voluntarily to Turkey. The police officers and flight attendants tried to calm him down once in the airplane. Because of his extremely aggressive behaviour, his hands were bound in order to prevent him from hurting himself and the persons next to him. A few minutes before take-off, the deportation was called off at the order of the aliens authority. He nevertheless refused to get back into the police car which was to take him back to the Border Police duty station. Once again, coercive measures had to be applied to him. But the measures taken were always in line with the law. A preliminary investigation by the public prosecutor against officers of the Federal Border Police who were suspected of having caused bodily injury in the execution of their duty was discontinued. A complaint against this decision was later rejected.

520. **Serge Menga-Nsibu**, a man of African origin, was allegedly ill-treated by two police officers in Essen on 1 September 1999 during his arrest, en route to the police station and at the police station. Police officers are said to have banged the left and right sides of his head off the adjacent walls and to have repeatedly kicked and punched him. He was forced to undress and subjected to racist abuse. After being released, he was reportedly taken by a friend to the Elisabeth Hospital in Essen (Elisabeth-Krankenhaus Essen). The medical report indicates that he suffered first degree concussion, bruising to his head and a cut to his face.

521. The Government indicated that, while his car was being searched, Serge Menga-Nsibu adopted an aggressive behaviour towards the police officers, who had to use physical force to restrain him. He was eventually handcuffed and taken to the police station. Owing to his injuries (face swelling and laceration), sustained during his fight with the police officers, he was

offered medical treatment, which he accepted. The Government noted that two police officers had to be treated at the hospital for several injuries, including a bite, bruises and swellings. The policemen concerned instituted legal proceedings for bodily injury. The public prosecutor's investigation against Serge Menga-Nsibu for resisting law enforcement officials was discontinued by the Essen district court on a provisional basis. Finally, he was ordered to pay DM 2,000 by 2 May 2001 to the policeman who suffered the more severe injuries.

Urgent appeals and replies received

522. On 22 February 2000, the Special Rapporteur sent an urgent appeal on behalf of **'Abd al-Akher Hammad** and **Muhi al-Din Ahmad 'Abd al-Mun'im** and their families, who are Egyptian citizens and who reportedly applied for asylum at Frankfurt airport on 26 January 2000. Their asylum applications are said to have been conducted in the transit zone of Frankfurt-am-Main airport under the special "airport procedure" and to have been refused on 31 January 2000 as being manifestly unfounded ("offentsichtlich unbegründet") by the Federal Office for the Recognition of Refugees. Their appeals to the administrative court are said to have been turned down on 16 February and 15 February 2000 respectively. 'Abd al-Akher Hammad is reportedly suspected of being one of the leadership in exile of the armed wing of the Islamist group al-Gama'a al-Islamiya (Islamic Group), which he allegedly denies. Muhi al-Din Ahmad 'Abd al-Mun'im was reportedly tried by an (Emergency) Supreme State Security Court and sentenced to a seven-year prison term for "membership in a secret illegal organization intending to overthrow the government" which he is said to have served from 1981 to 1988.

523. On 29 February 2000, the Special Rapporteur sent further information to the Government on the case mentioned above. In particular, it was reported that the persons concerned were now facing imminent and forcible repatriation to Iran, from where they may be forcibly repatriated to Egypt.

524. By letter dated 13 March 2000, the Government replied that it would not deport the two Egyptian nationals to any country where they could be subjected to cruel, inhuman or degrading treatment, and would not deport them to their home country, irrespective of the fact that their asylum requests were unfounded.

Guatemala

525. By letter dated 8 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998 regarding which no reply had been received.

Observations

526. The Special Rapporteur considers it appropriate to draw to the attention of the Commission the findings of the Committee against Torture on its consideration in November 2000 of the periodic report of Guatemala under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which expressed concern about: "[e]l deterioro de la situación de los derechos humanos en Guatemala, en especial el incremento de los casos verificados de torturas y de tratos crueles, inhumanoes y degradantes en relación con la situación que se observaba cuando el Comité examinó el segundo informe periódico.

La circunstancia que los principales responsables de esas violaciones sean agentes de la Policía Nacional Civil, en especial de su Servicio de Investigación Criminal, ha frustado las expectativas de contar con una renovada institución policial única subordinada al mando civil y depurada de los vicios que caracterizaron a las instituciones policiales del pasado." (CAT/C/XXV/Concl. 6).

Guinea-Bissau

527. By letter dated 8 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1999 regarding which no reply had been received.

Haiti

528. By letter dated 8 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1997 and 1999 regarding which no reply had been received.

Honduras

529. By letter dated 8 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998 regarding which no reply had been received.

India

530. By letter dated 16 August 2000, the Special Rapporte ır advised the Government that he had received information according to which human rights defenders are subjected to several forms of harassment, including severe acts of violence, and that impunity prevails in several cases where human rights defenders were subjected to torture. Many apparently peaceful protests by those defending human rights have reportedly been broken up by the security forces using excessive force. Demonstrators are said to be often severely beaten with lathis (long wooden sticks) and kicked. Numerous incidents of police shootings leading to death or injury are said not to have been properly investigated. In particular, the Special Rapporteur has transmitted information on the following individual cases.

531. **Bhanwari Devi**, a saathin (village development worker) working with the State-sponsored Women's Development Programme in Bhateri village, Rajasthan, to eradicate child marriage, was allegedly raped by five men of a higher caste on 22 September 1992. The rape was believed to be a punishment for her activities. The police reportedly initially refused to record her statement. The inquiry by the Central Bureau of Investigation (CBI) allegedly subjected her to excessive questioning about the incident. The trial began in a lower court only in October 1994. In a verdict given in November 1995, the Court found that the delay in filing her complaint with the police and in obtaining a medical examination indicated that she had made the story up. The men were reportedly acquitted of the charge of gang rape but convicted of minor crimes. An appeal against this judgement was lodged in the Rajasthan High Court.

532. On 2 October 1994 over 200 buses carrying **activists** calling for a separate hill state of Uttarakhand in north India bound for a rally in Delhi were stopped by district authorities who attempted to persuade them not to attend the rally. The police are reported to have opened fire without warning. Twenty-four activists were killed and several injured. Several women

protestors were allegedly raped. The Central Government is said to have instituted an investigation by the CBI which found that the police were guilty of the rape of 7 women and of "misbehaving" with 17 others. In February 1996, the Allahabad High Court reportedly delivered a judgement awarding compensation to the victims. However, in May 1999, in a judgement on several petitions filed in appeal by the accused as well as the Union and Uttar Pradesh state governments, the Supreme Court termed the High Court decision on the waiving of sanction and the granting of compensation "unsustainable" and overturned it. The case is believed to be ongoing.

533. **N. Pishakmacha Devi** reportedly joined a demonstration in the state of Manipur in February 1996 demanding a judicial enquiry and punitive action against the security forces in the case of the shooting of a schoolboy. Demonstrators were allegedly beaten and tear gas was used to disperse the crowd. N. Pishakmacha Devi was herself beaten by the police.

534. On 21 February 1997, **villagers from Pawarsakhari** village protested by rasta roko (road block) against two state cabinet ministers who were reportedly attempting to by-pass it by using an alternative route. A battalion of the Special Reserve Police (SRP) is said to have arrived and charged at villagers with lathis. Several people were allegedly beaten by members of the battalion and 96 people were detained. During protests which took place on 15 May 1997, the police, including the SRP, are reported to have used excessive force against the protestors. They were reportedly severely beaten.

535. In February 1997, **child labour activists** reportedly held demonstrations in the streets of Ferozabad, Uttar Pradesh, calling for the immediate implementation of Supreme Court directives passed in December 1996 which upheld the law banning child labour in several industries in India. Following these protest marches, members of the Bachpan Bachao Andolan (BBA), a national organization calling for an end to child labour and affiliated to the South Asia Coalition on Child Servitude, set up a temporary camp outside the office of the District Magistrate, Ferozabad. On the evening of 19 February 1997, the police attacked several of the activists with lathis. Two of the activists, **Dilip Sevarthi**, head of the Ferozabad unit of the BBA, and **Thakur Das**, allegedly received severe blows to the head. They were reportedly refused medical treatment from local hospitals and private clinics, which were believed to be acting under instructions from the local authorities.

536. **Surinder Oberoi**, a journalist, was beaten by police on 27 June 1997 after he directed his photographer to take pictures of the police beating and kicking a woman demonstrator in front of the United Nations Observer Group office in Srinagar. He was allegedly beaten with sticks on his head and shoulders. Around 50 local journalists protesting against this incident on the afternoon of the same day were reportedly tear-gassed and some 20 were said to have been injured in police beatings.

537. On 25 June 1997, **between 40 and 50 women** reportedly gathered together peacefully in Ghantaghar, Saharanpur, in Uttar Pradesh to protest against the treatment by police of Zeenat Naaz, President of the Deoband Municipal Board and representative of several local women's organizations. Around 200 police allegedly charged the protesters. Several of the

women were alleged to have been beaten on their chests and legs with lathis and rifle butts. They were allegedly kicked and thrown inside police jeeps where they were again beaten. Some of the women complained that the police had beaten them on their genitals.

538. **Narendra Kumar Tak** was reportedly picked up in Rajasthan by the Madhya Pradesh police and taken to Gwalior in June 1998. He was allegedly beaten and abused during the journey and upon arrival at the police station. He was then sent to Gwalior Central Jail, where he was allegedly tortured by other inmates. He is said to have been ill-treated at the instigation of the father of his brother's wife, a lawyer and former Public Prosecutor from the Gwalior district, Madhya Pradesh, who opposed the marriage. Following his release, a petition was reportedly sent to the National Human Rights Commission, which asked the Madhya Pradesh and Rajasthan police to provide reports. An urgent appeal was sent on behalf of his brother, Manoj Kumar Tak, on 12 January 2000 (see below).

539. **Mohammad Maqbool Mir** was reportedly arrested on 11 July 1998 by members of the army artillery camp of Chek Seri Pattan, Baramullah district, Kashmir. On 14 July, his body was reportedly handed over to his family. Serious injuries allegedly due to torture were said to be visible.

540. **Kesar Singh**, Block President of the Punjab Human Rights Organization (PHRO) and associated with the Committee for Coordination on Disappearances in Punjab was reportedly threatened on several occasions by a police inspector that if he did not stop working for the PHRO he would have false cases filed against him. He was reportedly arrested by this police inspector on 28 July 1998 from his home in Kalewal village along with another man. The two were allegedly tortured by two police officers in the presence of the Superintendent of Police. They were reportedly stripped and dragged by their hair and their legs were stretched far apart. The Deputy Inspector General of Police is said to have informed him that they were going to eliminate human rights defenders by putting them in jails. Kesar Singh was remanded to judicial custody on 1 September 1998 and sent to Nabha Security Jail.

541. **Mohammed Sikander Peer** was reportedly arrested on 29 August 1998 by members of the Special Operation Group of Jaypur and Kashmir Police Kupwara and 12-Gharwal Regiment stationed at Salamatwari Kralpora. On the following day, his body was said to have been found outside the army camp of Salamatwari Kalmoona. His body allegedly bore marks of torture, including deep cuts and bullet marks.

542. **Rajkumar, Ramavtar** and **Murlidhar**, three social activists working for the Vindhya Vikas Lok Sanghatan (People's Organization for Development of Vindhyas) were reportedly called to the Badausa police station in Banda district of Uttar Pradesh by the station house officer on 20 November 1998, in connection with a case that was pending in the Allahabad High Court against one of them. During interrogation, they were allegedly beaten. Medical reports indicate that the men sustained injuries caused by a blunt object.

543. Four human rights defenders associated with the Manab Adhikar Sangram Samiti (Human Rights Action Committee) (MASS), in Assam, many of them journalists, were reportedly arrested on 23 February 1999 by police while putting up posters to advertise a

forthcoming meeting of MASS. In protest, **Dhirawati Choudhury**, a MASS woman activist started a fast along with other protesters. Police reportedly beat several of the protesters with lathis and tore Dhirawati Choudhury's clothes. She and 12 women protesters were arrested and taken to Bongaigaon police station, where they were allegedly subjected to further beatings.

544. **Y. Mani**, the Vice-President of the All Manipur United Clubs Organization, was reportedly taken into army custody on 16 April 1999, where he was allegedly beaten, in particular on his head and face, with a wooden stick, and on his back with an iron chain.

545. **Balbir Singh Bains**, said to be resident in England, and his friend **Sukhminder Singh** were reportedly arrested on 24 June 1999 and held in a special cell of the crime branch of Lodhi Road police station, where they were allegedly beaten and harassed for the five following days. They were stripped naked and sexually harassed. On 27 and 29 June 1999, their families are said to have filed a complaint about their illegal detention with the Delhi police commissioner and the Chief Justice of the High Court. They are believed to be currently detained in Tihar Jail No. 3 in New Delhi awaiting trial.

546. **Adivasi villagers** who have been occupying an area of land in Murbad Taluka in Thane district for many years were allegedly subjected to ill-treatment in August 1999. Their occupation was challenged by several Mumbai businessmen. On 18 August they and a group of people including security guards approached their fields. A scuffle ensued. The police reportedly visited the village regularly for three days after the incident and detained around 19 people. Several are reported to have been beaten by the police while being arrested.

547. Women human rights defenders in Manipur State, known as Meira Paibis (torch bearers), are said to have regularly been ill-treated by police and security forces. On 16 October 1999, Meira Paibis reportedly involved in a peaceful protest against the killing of 10 civilians by members of the Central Reserve Police Force at Tonsem Lamkahi on 3 October, were beaten and several received severe injuries. In particular, **Leichombam Ongbi Romabati** was allegedly given a hard blow on her left arm with rods tipped with metal. **Leishram Prema Devi** reportedly received a severe sharp blow on her left temple.

548. **Iqbal Agwan**, the President of the Institute for the Development of Youth, Woman and Child, commonly known as PRAYAS, reportedly went to Tamia on 11 December 1999. On his way back, he was reportedly stopped by a Superintendent of Police who asked him to go to the Kotwali City police station. Upon arrival at the police station, he was reportedly immediately taken to the residence of the Superintendant of Police, who there reportedy insulted and threatened him, and then reportedly asked an inspector to beat him. He was then reportedly taken to the police station and put in a lock-up. The next morning, he was taken to the office of the Sub-Divisional Police Officer (SDPO) Chindwara, where he was allegedly kicked, beaten and slapped and threatened with being subjected to electric shocks. He was reportedly released on 13 December 1999 after having had to sign a piece of paper which he was not allowed to read. He was told not to make a complaint.

549. **Kisan-ul-Din Ahmed** was reportedly taken by security forces on 5 December 1999 to a school building near the town of Baramulla, in Jammu and Kashmir, where he was allegedly tortured. His mother-in-law and son were also reportedly taken by security forces and beaten. The reason for this treatment was reported to have been because he filed a case against the security forces in the High Court.

550. On 31 January 2000, **Deshpal Singh**, of Bhartiya Kisan Union (Indian Farmers Union) (BKU) activist, and **Gurmeet Singh**, a farmer, were reportedly killed in Jethuke village, Bhatinda district, in the state of Punjab, when the police opened fire on hundreds of people demonstrating about the detention of four BKU leaders. Villagers then reportedly staged a dharna (sit-in) on the railway track, demanding the immediate release of the leaders. A lathi-charge is said to have followed and tear gas was allegedly used. At this point demonstrators reportedly started throwing stones at the police, who then reportedly opened fire. The villagers started running towards their homes but the police chased them and beat them. Several people were chased into the Gurudwara (Sikh temple), which was then sealed by the police. Firing reportedly continued into the night and injured protesters were rounded up by the police and taken away. Several other demonstrators are said to have sustained injuries including bullet injuries, abrasions, injuries caused by blunt instruments and deep wounds. Several police officers were also injured.

551. On the evening of 7 March 2000, **several hundred people** affected by the Maheshwar dam in Khargone district of Madhya Pradesh were said to be carrying out a peaceful dharna in a nearby field. The following day, over 350 people, including over 200 women, were reportedly forcibly removed and many of them arrested and detained. Several were allegedly beaten with lathis and the clothes of several women were torn.

552. **Asim Chakrabarty** and **Vivek Sarkar**, two members of the Siliguri branch of the Association for the Protection of Democratic Rights (APDR) were reportedly beaten by the police on 26 March 2000. The two men went to the Siliguri police station to make a complaint to the police about a case of harassment which had been brought to them. The officer-in-charge at the police station reportedly stated that the APDR needed to be taught a lesson. He allegedly hit them with a stick. Asim Chakrabarty's arm was allegedly twisted to the point of being broken and Vivek Sarkar was thrown in a ditch after being beaten.

553. **Lieutenant Colonel Save**, a retired army officer, was reportedly arrested on 8 April 2000 following incidents in Umbergaon Taluka, Gujarat, regarding the construction of a port in the village. He was allegedly beaten by the chief of the police and was assaulted with lathis during four consecutive hours. The police are believed to have tried to transfer him to the Mamta Hospital in Umbergaon. But the medical doctors are said to have refused to admit him because of the seriousness of his injuries. He was therefore transferred to Jan Seva Hospital in Vapi where he was diagnosed as having a brain haemorrhage. He was then reportedly handed over to his family who rushed him to Hinduja Hospital in Mumbai, where he is reported to have died from his injuries on 20 April 2000. Furthermore, it is reported that villagers, including **Sagar Machhi, Harish Machhi** and **Pappubhai**, as well as their lawyers, were allegedly severely assaulted after having been arrested.

554. By the same letter, the Special Rapporteur reminded the Government of a number of cases transmitted in 1997, 1998 and 1999 regarding which no reply had been received.

Urgent appeals and replies received

555. On 13 January 2000 the Special Rapporteur sent an urgent appeal on behalf of **Manoj Kumar Tak**. In May 1998, he is said to have married Anuradha Sharma. Her father, a former public prosecutor from the Gwalior district of Madhya Pradesh, who opposed the marriage, reportedly put pressure on the Madhya Pradesh police to arrest him and his brother, **Narendra Kumar Tak**. In June 1998, Narendra Kumar Tak was reportedly picked up in Rajasthan by the Madhya Pradesh police and taken to Gwalior Central Jail, after having been beaten and interrogated about the whereabouts of Manoj Kumar Tak and Anuradha Sharma. He was then reportedly severely tortured by other inmates in the jail, allegedly at the instigation of Anuradha Sharma's father. He was eventually released on 23 July 1998 after his family had filed a habeas corpus petition. In January 1999, the National Human Rights Commission asked the Madhya Pradesh and Rajasthan police to provide reports. The Rajasthan police reportedly responded that they had found that the case against the brothers was false. In the meantime the two brothers went into hiding in mid-1999 in Rajasthan, fearing further abuse at the hands of the Madhya Pradesh police. Manoj Kumar Tak was reportedly picked up in Jaipur, in Rajasthan, on 4 January 2000, by armed plainclothes Madhya Pradesh police officers, who allegedly beat him on the back of the head as they dragged him out of his office. He was reportedly driven to Bilowa in Gwalior.

556. On 6 June 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions on behalf of **Mohammad Salim Bhat**. Mohammad Salim Bhat was reportedly arrested by Special Operations Group (SOG) police on 23 May 2000 at his shop in Batmaloo and taken to the SOG post at the Cargo Complex, Srinagar. His family attempted to file a First Information Report (FIR) questioning the legality of his arrest, the police at Batmaloo substation reportedly refused to accept it. **Shabir Ahmed Khan**, a worker for the opposition political party the Muslim League was reportedly arrested on 30 May 2000 by soldiers and possibly SOG officers, at his residence at Shaheed Gunj, Srinagar, and taken to Badami Bagh Cantonment in Srinagar. Mohammad Salim Bhat's younger brother **Irshad Ahmad** reportedly died in SOG custody on 5 May 2000.

557. By letter dated 10 November 2000, the Government responded that Shabir Ahmed Khan had been apprehended by the Army at his home, where a Chinese pistol and bullets were found. A case under section 7/27 of the Indian Arms Act was registered and he was arrested. The case was taken to the Court of First Magistrate, Srinagar, on 14 July 2000, where it was sub-judice.

558. On 15 June 2000, the Special Rapporteur sent an urgent appeal on behalf of **Shabir Ahmad Beigh**, who had reportedly been arrested on 11 June 2000 by officers of the Special Task Force and the Special Operations Group of the Indian police and the Central Reserve Police Force. His parents have been refused access to him and have not been informed of his place of detention.

559. On 9 August 2000, the Special Rapporteur sent an urgent appeal on behalf of **ethnic Chin from Myanmar** who were said to be facing imminent and forcible repatriation to Myanmar, where they allegedly were at risk of torture. The Mizoram state government has issued an order that all ethnic Chin and other asylum-seekers from Myanmar must leave India on or before 31 August 2000. The Mizoram state authorities reportedly began arresting these individuals, who they claim are illegal migrants, on 25 July. At least 100 asylum-seekers are said to have been recently returned to Myanmar. Those detained are reportedly held in several jails and police posts, inter alia in Lawngtlai, Saiha, Champhai, and Lunglei, under the Foreigners Act, which is said to make no provision for the claiming of asylum. The Mizoram police in Saiha, in the Chimtuipui district, reportedly arrested 79 people which are believed to be at imminent risk of being handed over to the Myanmar Armed Forces stationed in Vuangtu village, Thantlang township, in Chin state.

560. On 25 September 2000, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Robin Thokchom**, Secretary-General of the All Manipur United Clubs Organization (AMUCO), reportedly detained in Imphal Central Jail. He was said to have been arrested with another senior member of AMUCO, a senior member of a human rights organization and **Khundrakpam Tomcha**, a member of a Manipur-based armed opposition group, the Revolutionary People's Front, on 10 September in Imphal, by soldiers from the 17th Battalion of the Assam Rifles. The two other activists, Ito Tongbam and Surjit Chongthamcha, were said to have been handed over to police the following day, and have reportedly been charged with conspiring to wage war against the State and crimes under the Unlawful Activities (Prevention) Act. They are said to be currently on bail. Initially, the Assam Rifles reportedly denied having arrested Robin Thokchom and Khundrakpam Tomcha, claiming that the two men had escaped arrest. After the police reportedly found Khundrakpam Tomcha's body on the afternoon of 12 September, the Assam Rifles allegedly claimed that Khundrakpam Tomcha had been killed on the night of 11 September when he had resisted arrest, and that they had arrested Robin Thokchom when they found him hiding nearby. The Assam Rifles reportedly handed him over to police on 13 September, after an order from the Guwahati High Court. In custody, he was said to have been blindfolded, kicked and beaten, and slapped on his ears. A court reportedly ordered his release on bail on 16 September, but before he could be released an order was allegedly passed for his detention under the National Security Act, which is said to permit administrative detention for up to one year.

Follow-up to previously transmitted communications

561. By a letter dated 3 March 2000, the Government responded to a number of cases transmitted by the Special Rapporteur on torture and the Special Rapporteur on violence against women on 22 November 1999.

562. Concerning Bina Das (E/CN.4/2000/9, para. 501), the Government replied that the allegations made against the Border Security Force personnel were totally baseless and that it appeared to be family problems that had led to the death of Bina Das. In this context, two persons, Mohan Das and Bapuram Das were arrested and detained.

563. Concerning Kalpana Das Kakoti (ibid., para. 510), the Government responded that an inquiry concluded that there was no evidence of the involvement of army personnel in the alleged rape and that the allegations were baseless. Villagers from Taregan Potasali had also submitted a petition to the District Administration denying the allegation.

564. Concerning Tukeshwari Rava (ibid., para. 511), the Government replied that inquiries revealed that, on 14 January 1998, two members of the Border Security Force (BSF) had raped her. The case had been registered with the Bongaigaon police station under the Indian Penal Code, and forwarded to the court on 13 July 1998. A magisterial inquiry was conducted into the incident, confirming the rape, and the report was submitted to the Government of Assam. The personnel involved in the rape were suspended and will be tried by the BSF court.

565. By a letter dated 27 July 2000, the Government responded to the case of Devki Rani (E/CN.4/1999/61, para. 297) which had been transmitted by the Special Rapporteur in November 1998. An investigation by the police revealed that the allegations were factually incorrect. Devki Rani's husband had filed a petition in the High Court asking for protection. However, when police personnel were sent to his home, no one of his family was said to be residing at the given address. The Government reported that their two sons were habitual thieves, that eight criminal cases had been registered against them and that Devki Rani and her husband had filed eight writ petitions to protect their son from legal action.

566. By a letter dated 10 November 2000, the Government responded to a number of cases transmitted by the Special Rapporteur on 19 November 1999 (see E/CN.4/2000/9).

567. Concerning Murshi Ali Qazi (ibid., para. 488), the Government responded that a report had been lodged by Zubair Ahmad that his brother Murshi Ali Qazi had not returned after leaving on 16 May 1998. On 23 May 1998, the Sadar police station received information that the dead body of Murshi Ali Qazi had been found at Checki Mujund. Ongoing inquest proceedings had been initiated by the said police station. His body was handed over to his father.

568. Concerning Ali Mohd. Bhat (ibid., para. 496), the Government replied that he had been arrested on suspicion by the 15th Rajputuna Rifles and that a report was lodged at the Bandipora police station. During questioning, Ali Mohd. Bhat agreed that he had hidden two Chinese grenades at his home. After recovery of these grenades, he jumped from the second floor of his house, as a result of which his leg was fractured. A first information report was registered against him at Bandipora police station. The matter is pending before the Session Court of Baramulla.

569. Concerning Y. Mani (ibid., para. 498), the Government replied that he was arrested on suspicion of having links with underground terrorist groups. He was later handed over to officials of the Bishenpur police station who released him on 17 April 1999, since no active involvement of Y. Mani with the United National Liberation Front was established. On 24 April 1999, he lodged a complaint of torture with the Bishenpur police station. The allegation of ill-treatment is totally false. The complaint was lodged after an unusual delay, lacks substance and appears to have been made to tarnish the image of the army.

570. Concerning Rafiqa (ibid., para. 493), the Government replied that her brother Faroo Ahmed Bhat had crossed over to Kashmir eight years ago in order to receive training in arms. The security forces, in order to ascertain his whereabouts, occasionally make inquiries of Rafiqa. The allegation of torture by the forces is baseless and is denied.

571. Concerning Ghulam Mohammad Guru (ibid., para. 495), the Government responded that he was a Kashmir trained militant, arrested on 9 November 1995 in possession of explosives by BSF personnel. He was detained under the Public Safety Act for two years in the district jail at Udhampur, from 12 April 1996. He remained there until 11 April 1997, when he was transferred to Kot Bhalwal prison. During his detention, he was transferred to the Jammu government hospital for treatment of left-sided hemiplegia. The doctors treating him were of the view that he should not be moved frequently; however, he was again transferred, to Rangreth sub-jail. Owing to his deteriorating health, he was handed over to Soura police station for release on 24 April 1998.

572. Concerning Nazir Ahmed Hajam (ibid., para. 497), the Government responded that the army had laid an ambush at Gohnar Safapora to arrest some militants on 21 January 1999. Crossfire ensued, one militant escaped and Nazir Ahmad Hajam, who, by means of a police check, was later revealed to have been an active militant of Hizb-ul-Mujahideen, was killed.

573. By a letter dated 10 November 2000, the Government responded to a number of cases transmitted by the Special Rapporteur and the Special Rapporteur on violence against women on 22 November 1999 (see E/CN.4/2000/9).

574. Concerning Dulumoni Devi (ibid., para. 503), the Government responded that inquiries revealed that, on 24 April 1997, search and cordon operations were carried out by the army in Ghumatigaon during which a United Liberation Front of Assam (ULFA) militant was arrested. The army personnel obtained a "no objection" certificate from the elders of the village which certified that no atrocities had been committed by the army during the operation. The allegation concerning the rape of Dulumoni Devi by army personnel is baseless and false, which was corroborated by a medical examination of the victim.

575. Concerning Tarapulata Pagu (ibid., para. 504), the Government responded that preliminary investigations revealed the involvement of two sepoys of the 7th Battalion of the Sikh Regiment, and that summary general court martial proceedings had been ordered. Based on the findings, suitable disciplinary action would be initiated against the guilty individual.

576. Concerning Santhali Bodo and Runumi (ibid., para. 505), the Government responded that, on 21 May 1997, an army patrol of the 16th Rajput was carried out near Ambari, during which a member of the army was killed in crossfire and his rifle stolen. Subsequently, the army searched the area, villagers were gathered together in Ambari and questioned about the whereabouts of members of the Bodo Liberation Tiger Force, including its leader. The army obtained a clearance certificate from village elders certifying that children and women had not been harassed or maltreated by the army and that no atrocities had taken place. In the light of allegations of human rights violations by the army, the district magistrate ordered an inquiry which found that the militant organization had falsified documents and had forced a government doctor to produce a medical certificate certifying the rape of two Bodo girls. The General

Officer commanding the formation ordered an inquiry into allegations of rape, which was held in the presence of government and police officials, and representatives of the All Bodo Women Welfare Federation. The Army Court concluded that the allegations were totally baseless, malicious and aimed at tarnishing the image of the army. The Army had upheld the cause of human rights at all costs. A petition was filed by the All Bodo Student Union and the All Bodo Women Welfare Federation in the Guwahati High Court, alleging rape and molestation during army operations on 21/22 May 1997 in Ambari Tamulpora police station, to which a counter affidavit was filed by the army. The matter is currently pending.

577. Concerning Mamoni Koch (ibid., para. 507), the Government responded that investigations had revealed the involvement of a sepoy of the 25th Punjab Regiment. He was tried and found guilty by the Summary General Court Martial and was sentenced to one year in prison and dismissal from service.

578. Concerning Dimola Doimary (ibid., para. 512), Anjali Basumatary (ibid., para. 513), Monaishree Doimary (ibid., para. 515) and Nbiari Doimary (ibid., para. 516), the Government responded that the alleged rape of the above-named and of Nebari Doimary on the night of 9/10 March and 14/15 March 1998 were investigated by an army court of inquiry, which concluded that rape could not be established in any of the cases. The complaint was lodged by the complainant without verifying the facts and after a considerable amount of time. Medical reports on the women did not substantiate the allegation, Ms. Thengali Doimary denied having been raped and the army had not carried out operations in these areas on the date mentioned.

579. Concerning Lilawati Baishya (ibid., para. 517), the Government responded that an army court of inquiry was ordered on 18 June 1998 to investigate allegations of rape. The investigations revealed the involvement of two members of the 313 Field Regiment in the alleged rape on 16 June 1998. They were found guilty and sentenced to 10 years' rigorous imprisonment and dismissal from service by the summary general court martial.

580. Concerning Bina Baishya (ibid., para. 518), the Government responded that an army court of inquiry was ordered to investigate the allegation in June 1998 and revealed the involvement of two members of the army in the rape of Beena Baishya. The guilty persons have been dismissed from service and have been sentenced to 10 years in prison.

581. By letter dated 1 December 2000, the Government responded to a case transmitted by the Special Rapporteur in November 1999 in respect of Thiru Marimuthu, Jayaseelan and Madurai Veeran (E/CN.4/2000/9, para. 494). The allegations were investigated by the Revenue Divisional Officer of the Government of Tamil Nadu. The cause of the death of Thiru Marimuthu was phosphamidon poisoning. An inquiry into the matter had identified five police officers suspected of being involved in the case. The matter, is however, sub-judice.

Observations

582. The Special Rapporteur continues to appreciate the replies of the Government; given the federal nature of the State and the fact that many of the incidents take place in outlying areas, sometimes in areas of armed conflict, he acknowledges the difficulties attendant on assembly of the relevant information. In view of the failure of the Government to accept his request to

undertake a mission to the country first made in 1993 and consistently reiterated in writing and in visits to the Permanent Mission in Geneva (the most recent of the latter in November 2000), he deems it appropriate to share with the Commission his assessment of the situation on the basis of information reaching him over the years.

583. While the size and diversity of the country make it difficult to characterize the intensity of the problems all over, it certainly appears that there is a tradition of police brutality and arbitrariness in much of the country, the degree of brutality frequently being sufficiently unrestrained to amount to torture, often with fatal consequences. The brutality is sometimes linked with corruption and extortion and is often deployed in the service of local vested interests, be they economic or official. The use of excessive and indeed unprovoked and unjustified forces is common, especially in response to protests demanding rights. The persecution of those pursuing complaints against the police is a not infrequent phenomenon. In areas characterized by armed resistance, the security forces seem notably prone to resort to extreme and often lethal violence, even if individual abuses not carried out as part of organized military operations may be sanctioned. In general, while not absolute, the level of impunity among police and security forces seems sufficiently substantial as to conduce a general sense among such officials that their excesses, especially those committed in the line of duty, will at least be tolerated, if not encouraged.

584. The Special Rapporteur is aware that a mission could lead to the acquisition of information that could modify the above assessment. He regrets that he has not been given the opportunity to have access to such first-hand information.

Indonesia

585. By letter dated 10 October 2000, the Special Rapporteur advised the Government that he had received information on the following individual cases.

586. **Hardianto**, a student from Aceh and humanitarian volunteer worker, was reportedly slapped on his ears and hit and kicked 11 times by a member of the Mobile Brigade of Regiment III Jakarta at the Rasian refugee camp in north Kluet in south Aceh on 16 July 2000.

587. **Faisal Umri Bustami Meuraksa** was reportedly detained at Nusa by military personnel on 18 January 2000. On 20 January 2000, he was reportedly found dead near the Subulusalam River, bearing signs of torture such as a scar on his foot, four bullet wounds in his chest and his right eye had been gauged out. It is believed that he had been suspected of being a member of the Free Aceh Movement (Gerakan Aceh Merdeka) (GAM).

588. **Ruslan** and **Saifullah** were reportedly slapped on the face and kicked in the back and chest by members of the Mobile Brigade of Regiment III Jakarta in Seubadeh village on 4 July 2000.

589. **Mukhtaruddin,** a 17-year-old student and humanitarian volunteer worker was reportedly chased and subsequently slapped twice, kicked four times on his chest and six times on his back by members of the Mobile Brigade of Regiment III Jakarta at the Rasian refugee camp on 16 July 2000.

590. **Abdullah Yusri**, a government official at the Information Department in north Aceh from Lam Kule Peusangan Subdistrict, was reportedly assaulted on 5 July 2000 by the first corporal and the commander of the Mobile Brigade. He was said to have been given 12 blows to his head with wooden sticks, to have been kicked 4 times in the chest and 3 times on his back. As a result, he reportedly sustained a wound to his head, frequent spells of dizziness and pains in his chest.

591. **Ahmad Ishak** was reportedly arrested at his home on 28 May 2000. Officers of the Rajawali military personnel stationed at Keude Geurobak village, reportedly transferred him to the Rajawali Armed Forces Headquarters. The nail of his thumb was pulled out and he was kicked in the chest, reportedly leading to his bleeding from the mouth. His penis was reportedly burned with plastic and he was forced to eat green chilli pepper.

592. **Mudaris A. Wahab**, an 11-year-old schoolboy from Jambo Rehat village, was reportedly struck on his head and chest, slapped on his cheek and hit with a rifle butt on the nape of his neck by 24 military police officers on 2 May 2000. The officers are said to have wanted to extract information from the boy on the whereabouts of his father.

593. **Ridwan Mahmud Amin,** a 10-year-old schoolboy from Panton Rayeuk village, was reportedly ill-treated on the morning of 6 May 2000 and on 9 May 2000 in front of the military command post of Rajawali by two members of the armed forces. He was said to have been slapped twice on the cheek, struck on the head and chest and kicked.

594. **Muchsin**, a 17-year-old student from Air Berudang village, and members of his family were reportedly in their home in the evening of 19 April 2000, when two members of the South Aceh Police Resort and the Military Command 0101 of South Aceh are said to have fired bullets, hitting and fracturing Muchsin's right leg, killing Muchsin's cousin and wounding his elder sister.

595. **Irwan M. Yunus**, a humanitarian worker from Ladang Tuha village was reportedly hit in the stomach, slapped on his ears and kicked by members of the Mobile Brigade of Regiment III, Jakarta on 16 July 2000 at the Rasian refugee camp.

596. **Abu Bakar Ramli**, a 13-year-old schoolboy from Idi Rayeuk subdistrict, was reportedly ill-treated by 12 members of the armed forces of the Rajawali military command post at a friend's house on 6 May 2000. He was said to have been subsequently brought to the Rajawali military command post at the Afdeling II of the Alue Air Merah village. The military command personnel reportedly dragged him from his bed onto the floor by his feet, kicked him and slapped him three times on his cheeks.

597. **Sukardi**, a member of an environmental and community development group called the Indonesian Bamboo Thicket Institute (Yayasan Rumpun Bambu Indonesia) (YRBI), was reportedly abducted in the vicinity of Sawang district police command (Polsek) on 31 January 2000. His body was said to have been discovered the following day around eight kilometres from the YRBI office, bearing serious injuries, such as bruising, swelling, a broken right hand with several muscles exposed, as well as shot wounds in the chest and the back of his legs. His death is believed to be linked to his activities as a community activist.

598. **Villagers of Memo** were reportedly attacked by a number of militia members who were led by a police escort into the village following a pro-integration rally in the nearby town of Maliana on 27 August 1999. On arrival, the militia groups are said to have begun to throw rocks at the villagers. At some point during the confrontation, police and militia members are believed to have opened fire.

599. **Several students** from Student Solidarity with the People (Solidaritas Mahasiswa untuk Rakyat) (SMUR), a human rights group, were reportedly attacked by officers of the Police Mobile Brigade (Brimob) on 3 January 1999 during a memorial ceremony marking the anniversary of a shooting incident in the town of Lhokseumawe. The SMUR students were reportedly severely beaten, over 10 students were reportedly injured during the attack and one student is said to have required hospital treatment following the assault.

600. **Local staff of the United Nations Mission in East Timor (UNAMET)** in Baboe Leten village were reportedly beaten, kicked and stamped on by several militia members accompanied by a member of the Indonesian National Army (Tentara Nasional Indonesia), when they were preparing to escort ballot boxes to the town of Atsabe on 30 August 1999. During the attack, members of Brimob are said to have stood by and not to have intervened.

601. By letter dated 23 October 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998 and 1999 regarding which no reply had been received.

602. In a joint letter with the Special Representative of the Secretary-General on human rights defenders, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on violence against women, its causes and consequences, dated 22 November 2000, the Special Rapporteur expressed his deep concern with respect to the current situation in the province of Aceh. In particular, he noted information he had received regarding alleged acts of torture, including sexual violence, committed by the military and security forces against civilians, in particular human rights defenders, as well as peaceful pro-independence activists. On the same day, a press release was issued by the authors of the joint appeal.

Urgent appeals and replies received

603. On 6 January 2000, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Syaifuddin Gani** and **Nauzaruddin Ibrahim**, two human rights lawyers who had reportedly been arrested on 4 January 2000 by the police in Sigli town, in Aceh, during an operation against presumed members of the separatist group GAM.

604. By letter dated 14 February 2000, the Government replied that an investigation had confirmed that Syaifuddin Gani and Nazaruddin Ibrahim had been arrested during a police operation against presumed members of GAM on 4 January 2000. After finding documents relating to GAM in their car, the police questioned the two men, who were released on the same

day owing to a lack of evidence and insufficient grounds to detain them. During questioning, the two men were accompanied by three lawyers of their choice. They were not subjected to any ill-treatment.

605. On 20 March 2000, the Special Rapporteur sent an urgent appeal on behalf of **16 Irian Jaya pro-independence supporters** reportedly arrested between 28 February and 2 March 2000, after clashes had allegedly occurred on 28 February between around 400 pro-independence supporters and police in Nabire town in Papua, in which 3 civilians reportedly died and 10 others were said to have received gunshot wounds. They were reportedly detained incommunicado at Nabire police resort (POLRES). Furthermore, **Yance Pekei**, who was reportedly detained around the same time but later released, is believed to have been subjected to torture, such as being hit with various objects, including a rifle and a metal bar, having plastic put over his fingers and shoulders which was then allegedly set alight, and having his ears punctured with a stapler.

606. On 31 March 2000, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Ramli, Marhaban Juned** and **M. Isa Daud** who had reportedly been arrested on 29 March 2000 by members of the Indonesian Armed Forces (TNI) in Aceh Besar district. They were allegedly beaten at the time of arrest and they have since been held incommunicado at District Military Command No. 1 (Kodim 1).

607. On 10 April 2000, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Usman Jalil, Darman, Abdullah bin Haji Syamuan, Ibrahim Ismail, Abdurrahman, Sulaiman Yusuf,** and **Ishak bin Haji Karim**, from Menasah Asan village, Simpang Ulim subdistrict, east Aceh and one other person, who had reportedly been arrested in Aceh on 1 April 2000 by members of the Indonesian Armed Forces (TNI) during an indiscriminate operation to round up members of GAM. They were allegedly being held at a military post in Alue le Itam, Julok subdistrict, east Aceh. Furthermore, **Usman bin Abdullah** and **Sulaiman Sabi**, from Deah Temanah village, Trienggadeng subdistrict, Pidie district, were reportedly arrested on 2 April 2000 by members of the TNI in Jurang Berangkat. They were believed to be held either at the Trienggadeng Koramil or at Pidie District Military Command (Kodim).

608. On 11 April 2000, the Special Rapporteur sent an urgent appeal on behalf of **Christiano Lafu** who had reportedly been arrested by the TNI on 10 March 2000 close to a border crossing checkpoint at Passabe, Oecussi, East Timor when he had just crossed into West Timor and who was reportedly detained in Kefamenanu town, West Timor. The Indonesian Police (Polri) had reportedly acknowledged that he was under investigation by them, that he had been charged with carrying a long-bladed weapon and that he may face trial. A United Nations district administrator reportedly travelled to Kefamenanu but was unable to meet him. Christiano Lafu is also said to have no access to lawyers or to family members.

609. On 1 September 2000, the Special Rapporteur sent an urgent appeal on behalf of 28 people, including 5 juveniles, reportedly detained at the Sorong Police Resort (Polres) in connection with a demonstration on 22 August 2000 outside a church in Sorong where around 50 people raised the Papuan flag: **Esron Imbir, Ananias Urbinas, Ibrahim Imbir,**

Darius Rumbarap, Aram Imbir, Ayub Manggaparau, Keliopas Imbir, Andreas Rumbarap, Simson Imbir, Eli Obinaro, Yarius Imbir, Rinto Suruan (aged 15), **Festus Imbir, Wilson Urbinas, Musa Imbir, Metus Obinaro** (aged 15), **Askenas Imbir, Lomeros Morin, Alberth Imbir, Mika Rumbarak** (aged 16), **Elom Umpes, Zakeus Morin, Simson Umpes** (aged 16), **Yanto Mirino, Manase Umpes** (aged 16), **Kostan Wanma, Andreas Suruan** (aged 17) and **Amos Wanma.** The Indonesian Mobile Police Brigade (Brimbo) arrived shortly after and ordered the protestors to take down the flag. In the clash that followed three demonstrators are believed to have been shot dead. The above-named are detained together in a cell measuring just 3 square metres. One had a bayonet wound, two had gunshot wounds, one had injuries caused by crawling on asphalt and another eight had wounds resulting from kicks, punches and beatings with the butt of a rifle.

610. On 4 September 2000, the Special Rapporteur sent an urgent appeal on behalf of 11 people, **Jalauddin Harahap, Anwar Sadikin Hasibuan, Parno, Khoiruddin Nasution, Maranaga Hasibuan, Saiful Tanjung, Hamiruddin Nasution, Gumri Hasibuan, Atar Pasaribu, Badaor Lubis** and **Goloman Hasibuan**, and 4 other unnamed persons who had reportedly been detained in the Police Resort (Polres) in Padang Sidempuan, the capital of Tanpanuli Selatan district in northern Sumatra. They were arrested on 27 August 2000 in connection with a land dispute between villagers belonging to the Sosa indigenous group and a privately owned plantation company. One person was reported killed and another three injured, including Atar Pasaribu, who was hit by a rubber bullet. Others who were allegedly injured by beating with rattan canes had not been provided with medical treatment.

611. On 10 October 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the right to freedom of opinion and expression on behalf of **15 people** who had been detained in connection with violence which broke out in Papua on 6 October 2000. On that day, security forces are said to have opened fire during attempts to forcibly remove Papuan flags flying in several locations in Wamena town, Jayawijaya district. Two persons were reportedly shot dead and around 28 injured, including members of the security forces. Local people were then said to have demonstrated against the killings. Around 200 persons, including 25 children, were originally arrested during a joint operation by members of the Police Mobile Brigade (Brimob), the police and the military, but most were said to have been released shortly afterwards. Those released allegedly reported that they had witnessed other detainees, apparently those refusing to renounce support for Papuan independence, being beaten, kicked and cut with razors by the police. Fifteen of them were said to continue to be held incommunicado in Jayawijaya Police Resort (Polres). **Yorenius Wenda** and **Alex Meage**, who were said to be members of a pro-independence militia group, the Papua Taskforce (Satgas Papua), were reportedly taken from their homes by members of the TNI over the weekend. Local human rights monitors have reportedly checked with Jayawijaya District Military Command (Kodim), but knowledge of their whereabouts was denied.

612. On 2 November 2000, the Special Rapporteur sent a joint urgent appeal with the Special Representative of the Secretary-General on human rights defenders on behalf of **M. Yusuf**, a human rights activist who had reportedly been arrested by the Indonesian security forces on 1 November 2000 during a search operation near Bagok, Nurussalam subdistrict, in east Aceh. He is said to have been helping to organize the People's Congress for Victims of

Human Rights Violations in Aceh, which was reportedly due to take place in Banda Aceh, the provincial capital, from 4 to 6 November. He had reportedly been arrested because he was carrying documents relating to the conference. He is believed to be held at Nurussalam Police Sector (Polsek), and no charges had reportedly been brought against him.

613. On 2 November 2000, the Special Rapporteur sent a joint urgent appeal with the Special Representative of the Secretary-General on human rights defenders on behalf of **Rusli** and **Sofyan**, two volunteers with the People's Crisis Centre, a human rights monitoring and humanitarian group, who had reportedly been arrested on 7 November 2000 by police officers with the Police Mobile Brigade (Brimob) in Aceh. They were said to be held at the Julok Police Sektor (Polsek) in Julok subdistrict in east Aceh.

614. On 7 December 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Muhammad Nazar**, a leading activist of the Aceh Referendum Information Center (SIRA) who had reportedly been detained since 20 November 2000 at the Aceh Police Headquarters (Polda Aceh). He participated in the boycott of the celebration of Indonesian Independence Day on 17 August 2000. He was allegedly arrested for his participation in organizing a pro-independence rally in Banda Aceh on 10 and 11 November 2000. He was allegedly tortured while in police custody. Officers of the Police Mobile Brigade are reported to have threatened to kill him and to have thrown stones and water at him. He is reportedly being kept in a very small cell.

615. On 12 December 2000, the Special Rapporteur sent a joint urgent appeal with the Special Representative of the Secretary-General on human rights defenders and the Special Rapporteur on extrajudicial, summary or arbitrary executions on behalf of a woman, **Ernita**, and two men, **Idris** and **Bakhtiar**, all three humanitarian aid volunteers working with the organization Rehabilitation Action for Torture victims in Aceh (RATA) who were reportedly murdered on 6 December. They, together with a fourth RATA volunteer, were transporting a torture victim from the vicinity of Cot Mat Tahe village, in north Aceh, to a hospital for medical treatment when they were stopped by plainclothes Indonesian security forces. The four RATA workers, along with the torture victim, were allegedly taken to a military vehicle and tortured. While one RATA worker reportedly managed to escape, the three others and the torture victim, were allegedly lined up on the road and shot in the head. It is believed that the Police Mobile Brigade (Brimob) and the military TNI were involved in the killing. The witness to the incident is reportedly in hiding.

Observations

616. In the light of the failure of the Government to issue an invitation to visit the country, which he requested in 1993, by way of follow-up to his predecessor's visit in 1991 (see E/CN.4/1992/17/Add.1), the Special Rapporteur deems it appropriate to present his assessment of the situation on the basis of information he has received over the years. Most of the information relates to the activities of the security forces in areas of irredentism and conflict, notably Aceh, Irian Jaya and Timor. Of course, the United Nations is now responsible for East Timor, with problems arising for those compelled to flee to West Timor, primarily oppressed by the entities which the security forces do not seem to have been willing to dismantle

and disarm. The Special Rapporteur appreciates the challenge posed to the Government by the armed groups supporting independence of areas of the country. However ruthless, such activities do not justify resort to criminal human rights violations by the security forces. It is clear that, whatever may be the policy at the highest political level, the security forces have little hesitation in resorting to such violations, including the most brutal forms of physical torture. Apart from the manifest illegality of such behaviour, it is disheartening that the military seems unable to learn the lesson from East Timor of the futility of such a strategy.

Iran (Islamic Republic of)

617. By letter dated 5 October 2000 sent jointly with the Special Representative of the Commission on Human Rights on the situation of human rights in the Islamic Republic of Iran, the Special Rapporteur advised the Government that he had received information on the following individual cases.

618. **Dr. Mahmudali Chehregani**, a professor at the University of Tabriz and a prominent member of the Azeri community in Iran, was reportedly arrested in December 1999. He was elected to the Iranian Parliament in the March 1996 elections, but was prevented from taking his seat. On 18 February 2000 the Revolutionary Court reportedly sentenced him to six months' imprisonment for smuggling shampoo. He was reportedly ordered to pay a US$ 24,000 fine or face an additional 10 years in prison. It is alleged that he has been subjected to torture whilst imprisoned. During his imprisonment he is also alleged to have suffered a heart attack.

619. **Morteza Amini Moqaddam** and **Hamed Nazemi** were accused of the murder of a battalion commander of the Revolutionary Guard, the Basiji Militia. On 16 December 1999, they were convicted and sentenced. Amini, who may have been just 17 at the time of his offence, was sentenced to death. On 16 January 2000, he was reportedly taken to a public square where he stood for 30 minutes with a rope around his neck. His sentence was then commuted to a term of imprisonment when the victim's father forgave him. Nazemi, who is understood to be 13 years old, was sentenced to 15 years' imprisonment and 74 lashes.

620. The Special Rapporteur has transmitted information concerning peaceful pro-democracy demonstrations in July 1999 in Tehran where around 1,500 people were said to have been arrested. A number of those arrested have allegedly been subjected to torture. Confessions extracted by torture have reportedly been included as evidence during subsequent trials. In particular, the Special Rapporteur has transmitted information on the two following individuals.

621. **Ahmad Batebi** was reportedly arrested on 13 July 1999 by plainclothes officials during a raid at the Tehran University by police and security officials. He was allegedly beaten at the time of arrest about the testicles, legs and abdomen. He was then transferred to the Zir-Pol Hafez law enforcement centre where he was allegedly beaten with batons. He and other detainees were then reportedly blindfolded with their shirts, tied together around their necks and taken to a cell. They were allegedly beaten with batons. They were then reportedly transferred by bus to another location where Ahmad Batebi was separated from the others. Officials then interrogated him about the demonstrations. He was reportedly handed over to two soldiers wearing commando uniforms who bound his hands and secured them to a pipe. He was then beaten around his head and abdomen and ordered to confess. They cut off his hair, cutting his

scalp in the process. He was beaten so severely, in particular with a metal cable, that he lost consciousness. His head was allegedly forced into a drain full of excrement. Furthermore, it is reported that his mother and sister were brought to the detention centre, where Ahmad Batebi could hear his mother's voice. He reportedly confessed to charges of creating civil unrest and inciting others to do the same. When he was later taken to the Revolutionary Court, it is alleged that on one occasion he raised the issue of his torture during detention. However, it was reportedly not investigated by the judge.

622. **Akbar Mohammadi**, brother of Manuchehr Mohammadi, a leading member of the National Association of Students and Graduates, was reportedly detained in Evin prison. He was allegedly tortured by being hung upside down and flogged on the soles of his feet with metal cables. He reportedly lost two toenails. He reportedly saw a prison doctor who referred him to hospital for medical treatment. However, he did not receive such treatment. He was allegedly sentenced to death by a Tehran Revolutionary Court. His death sentence was commuted on 30 April to 15 years' imprisonment.

623. By letter dated 14 March 2000, the Government replied that any unofficial information regarding the confirmation of a death sentence against Akbar Mohammadi as had been published by some newspapers was being denied and that the case was still under consideration by the judiciary.

624. By letter dated 8 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998 regarding which no reply had been received.

Urgent appeals and replies received

625. On 23 February 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions on behalf of **Akbar Mohammadi**, one of the three students sentenced to death in September 1999 by a Tehran Revolutionary Court in connection with the July 1999 student demonstrations, who may face imminent execution. His sentence was reportedly upheld by the Supreme Court and can only be commuted by the Leader of the Islamic Republic of Iran. It was reported that he had been beaten; he was allegedly whipped on the soles of his feet with a cable.

626. On 12 April 2000, the Special Rapporteur sent an urgent appeal on behalf of **Abbas Amir-Entezam**, Deputy Prime Minister and Spokesman of the 1979 interim Government of Mehdi Bazargan, on behalf of whom the Special Representative of the Commission on Human Rights on the situation of human rights in the Islamic Republic of Iran intervened on 21 February 2000, 30 July 1999, 22 January 1999 and 18 September 1998. He was reportedly arrested on 8 September 1998 at his home in Tehran and is held in Evin prison, north of Tehran. He is said to be in urgent need of appropriate medical attention for kidney failure, a ruptured eardrum and loss of hearing in one ear, allegedly as the result of his long detention and repeated subjection to torture.

627. On 11 May 2000, the Special Rapporteur sent a joint urgent appeal with the Special Representative on the situation of human rights in the Islamic Republic of Iran, the Chairman-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on violence against women, its causes and consequences and the Special Rapporteur on the right to freedom of opinion and expression on behalf of two women's rights activists, the lawyer, writer and scholar **Mehrangiz Kar** and the publisher and editor **Shahla Lahiji**, as well as a representative of the student organization "Office for Strengthening Unity" (Daftar-Tahkim-e Vahdat), **Ali Afshari**. They were reportedly accused of "acting against national security" and were detained incommunicado. The exact whereabouts of the three persons have not been confirmed. Mehrangiz Kar and Shahla Lahiji were reportedly summoned for interrogation and detained by the Revolutionary Court on 29 April 2000. Following their interrogation, they were placed under arrest. Ali Afshari was reportedly detained on 30 April. They are believed to have been detained because of their participation in a conference entitled "Post-election Iran", organized in Berlin from 7 to 9 April 2000 by the Heinrich Böll Institute, and because of their advocacy of women's rights.

628. On 30 June 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Ezzatollah Sahabi**, a 70-year-old journalist and managing editor of the journal Iran-e Farda (The Iran of Tomorrow) who had reportedly been arrested on 26 June 2000 after having been interrogated at Branch 3 of the Revolutionary Court in Tehran. He is believed to have been detained incommunicado in connection with his participation at the aforementioned conference in Berlin, held on 7 and 8 April 2000, where political and social reforms in Iran were debated. **Khalil Rostamkhani**, a translator, had reportedly been arrested on 8 May 2000, because of having provided translation services for participants in the above-mentioned conference. He was said to have been held in incommunicado detention.

629. On 17 August 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions on behalf of **Ali Hassanzadeh, Mostafa Nikbakht** and **Mirkhalili Seyyed Nazary,** who had reportedly been arrested on 5 July 2000 on suspicion of having written slogans against the regime's leaders and of murdering a Revolutionary Guard. It is alleged that they have been tortured in order to extract confessions. Mostafa Nikbakht has reportedly been sentenced to death.

630. On 16 November 2000, the Special Rapporteur sent a joint urgent appeal with the Special Representative of the Secretary-General on human rights defenders, the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Akbar Ganji**, a freelance journalist, who had reportedly been arrested on 22 April 2000, allegedly in connection with his participation in the aforementioned Berlin conference. On 9 November, he was reportedly brought before Branch 3 of the Revolutionary Court in Tehran and complained about the torture he was allegedly subjected to in Evin prison. In particular, he had been hung upside down in a cell while four guards kicked him in the head and stomach. He was punished with 80 days of solitary confinement for having started a hunger strike to protest against the treatment he was subjected to.

Israel

631. By letter dated 20 September 2000, the Special Rapporteur advised the Government that he had received information alleging that torture and other ill-treatment is still being carried out by the Israeli security forces and police during interrogation, despite the September 1999 ruling of the Israeli High Court which determined that the systematic use of various interrogation techniques by the authorities was illegal. In particular, the Special Rapporteur transmitted information on the following individual cases.

632. **Haled Jum'a Al Shami**, from Dir El-Balah, was allegedly arrested on 31 December 1999 at the Erez checkpoint as he was leaving the Gaza Strip to go to work. After being transferred to Ashkelon prison he was allegedly subjected to torture during interrogation. He was forced into the shabeh position for continuous periods of between 12 and 36 hours. On approximately five occasions he was reportedly interrogated for 36 hours without sleep. His detention was reportedly extended on a number of occasions by a military court despite his appearing before the judge in a poor state of health.

633. **Sadat Heil Bsharat** was reportedly arrested on 10 February 2000 by the Ma'ale Efraim police. During interrogation he was allegedly subjected to violence and sexual abuse. His interrogators are alleged to have put a stick into his rectum which resulted in bleeding.

634. **Abed El-Kader Mohammed Yussuf Zaharan** was reportedly arrested on 9 April 2000 at a checkpoint on the outskirts of Dir Abu-Mashal. During interrogation he was reportedly seated in the shabeh position. Additionally he was allegedly deprived of sleep and kept in solitary confinement. Following his interrogation it is said that he made a confession in order to end his ill-treatment.

635. **Ibrahim Mohammed Yussuf Zaharan** was allegedly arrested on 10 April 2000. He was reportedly detained in solitary confinement and regularly interrogated for long periods in the shabeh position, during which his wrists were handcuffed and tied to his chair. He was alleged to be suffering from a tumour on his spleen for which he was not provided with medical treatment.

636. **Mustafa Taufik Awad** was allegedly arrested on 28 March 2000 at the Tul-Karem checkpoint when returning from work. He was reportedly interrogated by the General Security Service (GSS) in Ashkelon prison. During the first 20 days of his detention he was said to have been repeatedly interrogated for periods of between 15 and 20 hours per day in the shabeh position. He was reportedly kept in solitary confinement and deprived of sleep.

637. **Mohammed Ahmed Mohammed Abu-Tam'a** was allegedly arrested on 17 February 2000. He was then taken to the Russian Compound in Jerusalem where he was reportedly interrogated for the next six days for 20 hours per day. He was forced into the shabeh position. On one occasion he was allegedly kicked and beaten by one of his interrogators. In addition, he is said to have been deprived of sleep and kept in solitary confinement.

638. **Raed Ahmed El-Hamari**, from Bethlehem, was reportedly arrested on 22 August 1999. He was taken by GSS interrogators to the Russian Compound and interrogated there for the following 60 days. He was allegedly interrogated in the shabeh position, deprived of sleep and kept in solitary confinement. After going on hunger strike for six days it is understood that he was treated at the Kupat-Holim hospital but was not hospitalized. His interrogation was resumed after his treatment and after a further three days tied to a chair in the shabeh position, he was transferred to a cell known as "asfir" to be interrogated by Palestinian collaborators. He was allegedly forced to crouch in a closed-off corner of the cell. He was threatened with a knife and prevented from eating or using the toilet. After a period of some 10 days, during which he remained in the corner, he was attacked by three collaborators who burned his left arm and shoulder with cigarettes. He then agreed to confess and was returned to the GSS interrogation room, whereupon he was interrogated for a further 20 days.

639. **Mohammed Naim Sweiti** was allegedly arrested on 9 January 2000, following which he was reportedly interrogated by the GSS at the Russian Compound in Jerusalem until approximately 15 March 2000. He was reportedly denied access to a lawyer for 36 days. During the first days of his detention he was said to have been beaten, particularly on his stomach. He was kept in solitary confinement and was interrogated whilst forced to sit in the shabeh position.

640. **Hussam Mohammed Bushnak**, from Jenin, was allegedly beaten following his arrest by the Nazareth police on 5 January 2000.

641. **Lafi Ali-Rajabi** was reportedly arrested around July 1999 whilst attending the court hearing of one of his relatives in Ramleh. On 14 January 2000 it is believed that Al-Rajabi had contact with his family by telephone, during the course of which he expressed concerns about his personal safety. A few hours later his family was informed by the authorities that he had killed himself. His body was reportedly transferred to the Abu Kabir institute for an autopsy and was subsequently delivered to the family on 17 January 2000. The body reportedly showed signs of ante mortem torture, including bruising and ligature marks around the neck.

642. **Ashraf Amin Taufiq Hamed** was reportedly arrested on 18 November 1999. He was allegedly held in solitary confinement and interrogated on three occasions whilst in the shabeh position.

643. **Ramez Fayez Mohamed Rashid**, from the El Nusseirat refugee camp in the Gaza Strip, was reportedly arrested in February 2000 and sentenced to three years' imprisonment for entering Israel without the required permit. He was reportedly detained in El Nafha prison. On 9 August 2000, he is believed to have received a visit from his father and is alleged to have been in reasonable health. However, he reportedly died some two days later. The cause of his death has allegedly not been made public.

644. By the same letter, the Special Rapporteur reminded the Government of a number of cases transmitted in 1999 regarding which no reply had been received.

Urgent appeals and replies received

645. On 28 January 2000, the Special Rapporteur sent an urgent appeal on behalf of **Hussein 'Atawi, Abbas 'Awada, Zeinab 'Abd al-Majid al-Surur** (f) and **Hussein 'Ali Qasem** who had reportedly recently been arrested by the South Lebanon Army and were believed to be held at the Khiam detention centre.

646. On 4 February 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the independence of judges and lawyers on behalf of **Yussuf Mohammed Jum'a Kanan**, a resident of Han-Yunes in the Gaza Strip, who had reportedly been arrested in Bat-Yam on 18 January 2000 allegedly because he was working in a restaurant without a legal work permit. He has since then been detained at the General Security Service Interrogation Unit of the Shikma Detention Centre in Ashkelon. On 20 January 2000, his lawyer is said to have been denied access to him and an order prohibiting meeting with counsel is said to have been constantly imposed. On 31 January 2000, a petition that this order be lifted was reportedly filed with the High Court of Justice.

647. On 8 February 2000, the Special Rapporteur sent an urgent appeal on behalf of **Bassam Na'im Ashak Natshe** who had allegedly been arrested in Halhul and has been detained in the GSS interrogation unit of the Shikma detention centre in Ashkelon since. An order prohibiting meeting with counsel had been imposed until 6 January and was later extended several times.

648. On 9 February 2000, the Special Rapporteur sent an urgent appeal on behalf of **Oda Ahmed Mohammed Zaharan**, a resident of Jordan, originally from the village of Dir Abu-ashal (near Ramallah) who had reportedly been arrested on Allenby Bridge and had allegedly been detained in the General Security Service interrogation unit of the Jerusalem detention centre since then. An order prohibiting meeting with counsel had been imposed until 4 February 2000 and was later extended owing to "necessities of interrogation". On 30 March 2000, the Special Rapporteur sent further information to the Government according to which Oda Ahmed Mohammed Zaharan was permitted to meet his lawyer on 8 March, but had since been held incommunicado.

649. On 3 March 2000, the Special Rapporteur sent an urgent appeal on behalf of **Nimr Khaza'al, Sawsan Khaz'al** his daughter, and **Munif Abbas Khalili**, who had reportedly been arrested on 17 February 2000 in the villages of Aynata and 'Ayta al-Sah'b. It is alleged that they were held at Khiam detention centre.

650. On 9 March 2000, the Special Rapporteur sent an urgent appeal on behalf of **Mohammed Ahmed Mohammed Abu-Tam'a**, a student of the Al-Quds University, who had reportedly been arrested on 17 February 2000. He was allegedly detained in the General Security Service interrogation unit of the Russian Compound detention centre in Jerusalem. He was held in incommunicado detention for over two weeks. Since his arrest, he has reportedly been interrogated from 9 a.m. to 5 p.m. every day without a break.

651. On 17 March 2000, the Special Rapporteur sent an urgent appeal on behalf of **Akram Saber Mohammed Elsamri**, a Gaza resident who had reportedly been arrested at the Erez Checkpoint on 2 March 2000 and who was said to be detained incommunicado in the General Security Service (GSS) interrogation unit of the Shikma detention centre. The Special Rapporteur also intervened on behalf of **I'ad Mussa Mohammed Shurbaji**, a Gaza resident, who had reportedly been arrested at the Erez Checkpoint on 21 February 2000 and since detained in the GSS interrogation unit of the Shikma detention centre.

652. On 23 March 2000, the Special Rapporteur sent an urgent appeal on behalf of **Mohamed As'ad Yassin**, a Lebanese Red Cross volunteer from Dibbin, **Muhsin Nasrallah** and **Aba-Dharr Shugeir**, a student from Mays al-jabal, who had reportedly been arrested in South Lebanon on 1, 7 and 19 March 2000 respectively. They were believed to be detained at Khiam detention centre.

653. On 13 April 2000, the Special Rapporteur sent an urgent appeal on behalf of **Mustafa Dirani**, a Lebanese citizen, who had reportedly been arrested by an Israeli commando unit at his home in Kasser Naba in the Biqaa' Valley on 20 May 1994. He had reportedly been held in Khiam detention centre in incommunicado detention until September 1998, when he was allowed legal representation. He was severely tortured and kept totally naked for several months. He was reportedly subjected to electric shocks and a continuous deprivation of sleep, routine beatings and violent shaking and was forced to kneel for hours with his feet flat on the ground and his hands behind his back. He was allegedly denied medical treatment. He bears shrapnel wounds in his head and back which cause hemiplegia and which required surgery to be undertaken to his head and spinal cord.

654. On 19 April 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on violence against women, its causes and consequences on behalf of **Qozet Elias Ibrahim**, a freelance woman journalist from Rmeish, on behalf of whom the Special Rapporteur on the right to freedom of expression and opinion and the Chairman-Rapporteur of the Working Group on Arbitrary Detention intervened on 22 September 1999, and **Najwa Hosein Samhat**, a woman from Aynata. Both were said to be currently detained in Khiam detention centre. Qozet Elias Ibrahim was reportedly arrested on 2 September 1999 by the Israeli security forces on the grounds of having been accused of preparing reports about the situation in the occupied territories. She is said to suffer from a severe ulcer infection of the large intestine. She is constantly hooked to a drip in her cell because she is unable to keep any food in her stomach. Najwa Hosein Samhat was reportedly arrested with her husband **Hussein Ahmad Samhat** and her 16-year-old son, **Ahmad Hosein Samhat**, on 29 September 1999; both are reportedly detained with her. She has been subjected to whipping of her feet causing extensive bruising, blows to her face causing a cut lip, being hung by her hair and having cold and hot water poured on her body by women police officers. Both Qozet Elias Ibrahim and Najwa Hosein Samhat were reportedly taken to hospital by Israeli forces and militiamen from the South Lebanon Army after their health conditions deteriorated, allegedly as a result of having been subjected to torture at Khiam.

655. By the same urgent appeal, the Special Rapporteurs intervened on behalf of three other women in Khiam detention centre, namely, **Asmahan El-Khalil** from Aychiya who had reportedly been arrested on 10 September 1999, **Chamlakan Hussein Assaf**, a nurse from Arnoun working in the clinic of Dr. Husein Toufaily in Nabatie, who was reportedly arrested in Arnoun on 23 November 1999, and **Samira Hassan Attieh** who had been arrested in Arnoun on 23 November 1999.

656. On 27 April 2000, the Special Rapporteur sent an urgent appeal on behalf of **Mohammed Yaqub**, who had reportedly been arrested by the South Lebanon Army (SLA) in the previous two weeks and was detained at Khiam detention centre. The specific reasons for his arrest are not known, but it is believed that he is suspected of helping the resistance to the Israeli occupation of southern Lebanon.

657. By the same urgent appeal the Special Rapporteur intervened on behalf of **Mohammed Hassan Yaqub, Hussein Baher Jom'a** and **Yasir Ramiz Abu-'Aliwa**, who had reportedly been arrested by the SLA on 18 April 2000 and were believed to be detained at Khiam detention centre. The specific reasons for their arrest are not known.

658. On 12 May 2000, the Special Rapporteur sent an urgent appeal on behalf of **Ibrahim Mahmud Sallah**, who had reportedly been arrested on 24 April 2000 and had since been detained incommunicado at the GSS interrogation unit of the Jerusalem detention centre. His counsel filed several petitions to gain access to him.

659. On 19 May 2000, the Special Rapporteur sent an urgent appeal on behalf of **Mohammed Ali Kharroubi**, who had reportedly been arrested on 11 May 2000, as well as of **Ibrahim Harb**, **Malak Ibrahim Harb**, his daughter, and **Sati'a Bazzi**, all three from Bint Jubayl (south Lebanon), and **Hussein 'Awda**, from al-Magora village (south Lebanon), who had reportedly been arrested on 16 May 2000 by the South Lebanon Army. All were reportedly detained at El Khiam detention centre.

660. On 21 June 2000, the Special Rapporteur sent an urgent appeal on behalf of **Nabil Abu Ochel**, a resident of Gaza, who had reportedly been arrested at the Rafiah border crossing on 1 June 2000. He is said to have since been kept in incommunicado detention in the General State Security (GSS) interrogation unit at the Shikma detention centre. Several petitions have been filed on his behalf by his lawyer with no avail.

661. On 11 July 2000, the Special Rapporteur sent an urgent appeal on behalf of **Mohammed Mustafa Mohammed Abed El Aziz,** a resident of Beit Lahiya, who is reportedly physically disabled and confined to a wheelchair and who had reportedly been arrested at the Erez border crossing on 2 July 2000. He has reportedly since been held in incommunicado detention in the General State Security interrogation unit at the Shikma detention centre.

662. By letter dated 5 December 2000, the Government responded that he was being investigated for alleged involvement in terrorist activities for both HAMAS and Osama Ibn Laden. During the investigation, he confirmed that he was indeed an active member of these two organizations, that he had planned a number of terrorist activities involving the use of explosives, the kidnapping of soldiers and the killing of persons suspected of cooperation with

Israel. He was charged with 23 serious offences and the court considered that he had the authority to order others to carry out such attacks and ordered that he be held in custody until the completion of his trial. He had used his rights to judicial review and three petitions on the question of legal representation have been heard by the Israeli High Court of Justice. On 10 and 18 July 2000, the High Court held that barring access to legal representation at various times during the investigation was, considering all the circumstances of the case, necessary for the continuation of the investigation and the security of the region. He was granted access to legal representation on 26 July 2000. He received close and continuous medical attention throughout his detention. On 10 July, the High Court was satisfied that all the necessary medical treatment had been provided.

663. On 5 September 2000, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Nidal Daghlas**, from Aseera Ashimalieh in the district of Nablus, who had reportedly been arrested on 27 August 2000 by Israeli security forces. He was allegedly shot three times at the time of arrest, sustaining injuries to his feet and left arm. He was subsequently interrogated for a period of four hours, during the course of which he was allegedly beaten. His whereabouts were not known.

664. By letter dated 24 October 2000, the Government responded that Nidal Daghlas was arrested on 27 August 2000 during an operation aimed at arresting Abu Hanud, a member of Hamas, in whose house he had been hiding. He was interrogated for a short time to ascertain Abu Hanud's whereabouts. He was later transferred to the detention facility at Petah Tikvah, and his arrest was extended several times by a military judge. The Israeli security officers claimed that he had not been injured during the shooting, and medical examinations revealed that he was in good health. His lawyer, who had appealed to the Israeli Supreme Court to express concern about physical pressure put upon him and about his medical condition, withdrew her appeal once she learned that her complaints were baseless.

Observations

665. The Special Rapporteur's hope that the 1999 decision of the High Court of Justice would result in an end to the use of interrogation techniques involving torture or cruel, inhuman or degrading treatment (see E/CN.4/2000/9, para. 675) have proved to be ill-founded. The use of "moderate physical pressure" and other torturous techniques appears still in evidence, although some of the most brutal techniques used in southern Lebanon will, of course, no longer be possible. The Special Rapporteur accepts that not all allegations will be well founded. Nevertheless, as long as the Government continues to detain persons incommunicado for exorbitant periods, itself a practice constituting cruel, inhuman or degrading treatment (as repeatedly confirmed by the Commission), the burden will be on the Government to prove that the allegations are untrue. This is a burden that it will not generally be able to discharge convincingly.

Ivory Coast

666. By letter dated 8 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1997 regarding which no reply had been received.

Urgent appeals

667. Le 9 octobre 2000, le Rapporteur spécial a envoyé un appel urgent conjoint avec le Rapporteur sur les exécutions extrajudiciaires, sommaires ou arbitraires en faveur de **28 soldats** qui auraient été arrêtés suite à l'attaque dirigée le 18 septembre 2000 contre la résidence privée du chef de l'État. La plupart seraient des gardes du corps du Général Gueï et seraient accusés d'avoir tenté un coup d'État. Certains auraient été torturés en détention alors que d'autres auraient été exécutés. **SanSan Kampiré** serait décédé des suites des tortures qu'il aurait subies. Son corps aurait été retrouvé à la morgue du centre hospitalier universitaire de Treichville. Le sergent-chef **Souleymane Diomande**, surnommé "La grenade", le caporal **Vada Bamba**, le caporal **Finaly Bakoyoko** et le capitaine **Issa Sacko** seraient détenus au secret. Certaines des personnes arrêtées étaient détenues dans un ancien camp militaire appelé "La poudrière". Le sergent **Seydou Kone**, le caporal **Aboudrahamane Issa** et le caporal **Siaka Ouattara** auraient été torturés à la Maison d'arrêt militaire d'Abidjan (MAMA). Un certain nombre de civils auraient par ailleurs été arrêtés suite à l'attaque sur la résidence du Général Gueï et certains d'entre eux seraient actuellement détenus au secret à la gendarmerie d'Agban.

Jamaica

668. By letter dated 8 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998 regarding which no reply had been received.

Kazakhstan

669. By letter dated 5 October 2000, the Special Rapporteur advised the Government that he had received information falling within his mandate. By letter dated 8 December 2000, the Government responded to these allegations.

670. The Special Rapporteur had received information according to which a number of detainees had been severely beaten, choked, handcuffed to radiators or had plastic bags or gas masks placed over their heads to force them to divulge information. On 19 April 2000, President Nursultan Nazarbayev reportedly publicly admitted that torture and ill-treatment of suspects and detainees by law enforcement officers was becoming widespread and common practice. The President reportedly stated that a third of the 16,000 complaints received by the presidential administration in 1999 concerned abuses by law enforcement officers.

671. In particular, the Special Rapporteur transmitted information on the following individual cases.

672. **Irina Cherkasova** was allegedly tortured in police custody in order to force her to confess to a murder charge. She was allegedly beaten upon arrival at the Abaysk District Office of Internal Affairs (ROVD) in the city of Chimkent. She was allegedly beaten with a bottle filled with water, sticks, books and keys. The officers reportedly undressed her, bent her over and sexually assaulted her with a stick, two of them pinning her down and one forcing her mouth shut. A forensic doctor later recorded injuries which were said to be consistent with her report that one of the officers had threaded a pencil between her fingers, then beat her hand against her knee. It is alleged that another officer beat her with some instrument that was

connected to electric current and that with every blow she experienced excruciating pain in her head. She eventually fainted from the pain. She eventually agreed to sign a confession. She spent that night handcuffed to a radiator in a cell in the ROVD and was reportedly deprived of sleep for another three nights, beaten with rubber truncheons and raped. During her trial the court did not take into consideration her allegations of torture and she was later convicted of murder.

673. The Government denied the allegations of torture and indicated that she had been convicted by the South Kazakhstan oblast-level court on 20 October 1999 on charges of leading an organized criminal band, illegal acquisition of firearms and armed robbery. The judgement was upheld by the Supreme Court. In both trials, she stated that she had been tortured and her allegations were each time carefully investigated. She was interrogated in accordance with the requirements of the law governing criminal proceedings and in the presence of her lawyer.

674. In February 2000, police in Zhanatas reportedly detained **11 young men aged between 17 and 20** on suspicion of having participated in a fight during which a police officer was injured. Most of the detainees claimed that they were severely beaten while in police custody. **Kairat Seidahmetov** (aged 17) reportedly had a volume of the Kazak Criminal Code placed on his head and was then hit with truncheons. **Zhandos Zhandarbekov**'s arms were reportedly broken. **Baglanov** allegedly had his feet cut with a knife. **Kurmangazay Bogubaev** allegedly had his neck broken. The detainees also claimed that they had needles stuck under their fingernails. They had no access to lawyers or medical assistance and their families were said to have only been informed of their whereabouts eight days after their detention. In court all of them are said to have retracted their confessions and stated that they had been extracted under duress. The court did not take these allegations into consideration when reaching its verdict. Kairat Seidahmetov and two other co-accused were reported to have cut their necks with a blade in the courtroom in protest at the verdict. Kairat Seidahmetov died from his injuries later that day. The torture allegations are said to have sparked mass protests in Zhanatas. As a result the Zhanatas chief of police was reportedly dismissed from his post and a criminal investigation opened into the conduct of the police officers responsible. However, the investigation was reportedly closed without the torture allegations having been examined.

675. The Government indicated that Kayrat Seidahmetov, Kuat Saparbaev and Nurzhan Isakhanov had been found guilty of malicious delinquency and robbery by the Sarysu district court in Djantas, Djambul oblast and sentenced to six, four and three and a half years' imprisonment respectively. The other young men detained were found guilty of delinquency in the same judgement but were amnestied on 13 July 1999. Regarding the allegations that some defendants cut their throat in protest when the judgement was pronounced, the Government indicated that they had used sharp unidentified objects to inflict upon themselves slight injuries (superficial cuts) and that they were given immediate medical attention. Kayrat Seidahmetov was currently serving his sentence at the ordinary-regime penal colony in Taraz. The claims that Bugybaev's neck and Zhandarbekov's arm were broken during the judicial proceedings are unfounded. Following complaints from the parents that their sons were subjected to physical pressure during interrogation, medical checks had been carried out at that time. No bodily injuries were discovered. An inquiry was also opened by the Djambul oblast procurator's office and the Internal Affairs investigating service for South Kazakhstan oblast terminated the proceedings for lack of evidence. This decision was upheld by the Office of the

Procurator-General. Regarding the exceptionally severe punishment meted out to Isakhanov and Saparbaev in view of their age at the time of the commission of the offence, the criminal division of the Supreme Court of Kazakhstan reduced the penalty by making their sentences suspended ones.

Kenya

676. By letter dated 6 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1996, 1997 and 1998 regarding which no reply had been received.

Observations

677. While appreciating the Government's acceptance of his findings in the report of his 1999 visit (E/CN.4/2000/9/Add.4) (see E/CN.4/2000/SR.27), the Special Rapporteur regrets that it did not provide him with any information on measures taken to give effect to his recommendations. Without such measures, torture will continue to be a generalized practice in Kenya.

Kyrgyzstan

678. By letter dated 5 October 2000, the Special Rapporteur advised the Government that he had received information according to which law enforcement officers reportedly used excessive force to break up peaceful demonstrations in several regions of the country protesting irregularities in the 20 February 2000 and 12 March 2000 rounds of parliamentary elections. Hundreds of demonstrators were reportedly detained and beaten. In particular, in Kara Bura special police reportedly violently dispersed hundreds of demonstrators on 22 March. Police officers allegedly charged the demonstrators, beating them indiscriminately with batons and forcefully pushing them into buses. More than a hundred demonstrators were said to have been arrested and taken into custody, among them women and elderly people. Dozens of demonstrators reportedly needed medical attention and several were hospitalized. In particular, the Special Rapporteur transmitted information on **Baiysbubu Suiorkulova**, who reportedly spent three days in a hospital intensive care unit after being severely beaten by police officers who were trying to break up the protest demonstration. She was reportedly kept in detention for 24 hours without having access to medical help. Other women reported that they suffered concussion, broken arms or hands and severe bruising. Several also said that police officers had pulled them by their hair in order to remove them from the main square in Kara Bura. Peaceful protest pickets in the capital, Bishkek, which started in March were allegedly broken up by police on several occasions in April and June. Every time, protestors reported use of excessive force by the police, including beatings and violent methods of restraint.

Urgent appeals and replies received

679. On 11 April 2000, the Special Rapporteur sent an urgent appeal on behalf of **Nadejda Nikolaevna Maslovets**. She is said to be the only witness in the case of the death of Sergei Skromnov. On 27 February 1998 Sergei Skromnov was reportedly beaten up with truncheons, then pushed into a "Gazel" vehicle by three policemen and taken to an unknown destination, where he was allegedly tortured to death. Nadejda Nikolaevna Maslovets is reported

to have recognized the three policemen accused of his death during their trial in December 1999. Since the opening of the investigation, she had repeatedly been visited at home by unknown persons and threatened with physical injury. On 11 March 2000, she is reported to have refused to speak to three persons who had arrived at her house in a car. One of them allegedly pushed her and hit her in the chest, causing her to fall down. Her dogs are believed to have attacked her assailants. She reportedly received medical attention for the injuries she sustained during this attack. She has repeatedly applied to the prosecution office of Alamedin district of Bishkek and of Chui, to the Procuratorate General, and to the Ministers of the Interior and National Security, to no avail.

680. By letter dated 8 May 2000, the Government replied that an investigation was unable to determine who the persons were that had threatened Nadejda Nikolaevna Maslovets. Staff members of the Lenin District Internal Affairs Administration charged with the murder of S. Skromnov were presented to her, however she was not able to recognize the guilty parties. Nadejda Maslovets explained under questioning that she had last been threatened on 11 March 2000 and that visits and threats had ceased since. In order to provide her with protection, in February and April 2000, the duty stations and beats of the police patrol were ordered to move closer to her place of residence. By letter dated 6 June 2000, the Government stated that, during an investigation in December 1999, Nadejda Maslovets had identified the three militia officers who had detained and beaten Skoromov. She alleged that, since then, she had repeatedly been subjected to threats by unknown persons coming to her house, that she had been offered money to retract her testimony and that a vehicle with tinted windows had been parked outside her house. Since mid-January 2000, this had happened on a monthly basis. On 11 March, she was allegedly pushed and struck by one of three strangers. After lodging complaints with various authorities, she was directed by the Bishek Internal Affairs Administration to undergo a physical examination, the results of which were forwarded to the Alamedin District Procurator's Office for inclusion in a criminal case file. The Bishek Internal Affairs Administration was instructed by the Chu Regional Procurator's Office to post officers on the approaches to her home and to provide security and surveillance. Senior officers at the Bishek Internal Affairs Administration must review the options again and take immediate steps.

Follow-up to previously transmitted communications

681. By letter dated 6 June 2000, the Government replied to all the cases transmitted by the Special Rapporteur on 29 November 1999.

682. Regarding Nikolai Skorokhodov (E/CN.4/2000/9, para. 713), the Government responded that he had been escorted to municipal police station No. 4 by traders and a militia officer after committing acts of hooliganism at a market in Chui-Tokmok on the morning of 25 May 1998. At the police station, he is said to have headbutted and shattered a window. He was placed in a cell in the early afternoon. Pursuant to a decision by a judge, he was placed in administrative detention for 24 hours for petty hooliganism. He was released from detention at 10 a.m. on 26 May 1998. On the same day, he filed a complaint with the Chui-Tokmok Municipal Internal Affairs Department alleging that he had been beaten up by unknown persons at the market. A forensic medical examination revealed that he had sustained injuries to his neck which were categorized as grievous bodily harm, i.e. as endangering life at the time inflicted. On 16 July 1998, the city's Procurator's Office opened a criminal case on the said complaint.

Nikolai Skorokhodov proceeded to claim that his injuries had been inflicted by militia officers based at the Chui-Tokmok Internal Affairs Department. All the officers who had come into contact with him stated that they had inflicted no injury on him. At identification parades, he stated either that he did not recognize the officers or that he could not remember anything. The officers' testimony is corroborated by three administrative detainees held in the same cell as Nikolai Skorokhodov and by the judge at the Municipal Court who stated that when he was brought before him, he had showed no evidence of injury and had made no complaints. On 1 December 1999, criminal proceedings against the officers were dropped on the grounds that no offence had been committed. Criminal proceedings were instituted against Nikolai Skorokhodov for hooliganism on 28 May 1998. He was sentenced to six years' deprivation of liberty on 25 February 1999 at first instance, which was reduced to one year by the Chu Region Appeals Court. He was released after serving his sentence. Since his release, he has filed no complaints against the law enforcement agencies.

683. Concerning Uulbolsun Mamadiyarova (ibid., para. 714), the Government responded that she had been detained as a suspect on 12 August 1998 for "vigilantism" in respect of criminal proceedings which had been opened against her on 11 September 1997. She was not placed in a cell and was released on the same day. During formalities with a view to placing her in an isolation facility, Uulbolsun Mamadiyarova set upon the senior duty inspector at the Pervomaisky District Internal Affairs Department and a scuffle broke out between them. The senior investigator of the District Internal Affairs Department initiated criminal proceedings against her for "threats or violence in connection with the administration of justice". A forensic medical examination revealed that the senior duty inspector had received two scratches to the face and Uulbolsun Mamadiyarova had sustained lesser grievous bodily harm. The City Procurator's Office opened a criminal case for the wilful infliction of lesser grievous bodily harm on 17 May 1999, which was handed over to Pervomaisky District Prosecutor's Office for investigation. On 20 May 1999, the senior duty inspector was charged with "ultra vires action" and as a preventive measure was released into his own custody. On 21 May 1999, Pervomaisky District Procurator's Office dropped criminal proceedings against Uulbolsun Mamadiyarova on the grounds that she had committed no crime. On 28 January 2000, the senior duty inspector was relieved of his duty by an investigator's decision endorsed by the Procurator. On 14 February 2000, the criminal case was referred to the Bishek garrison military court for examination and a hearing was scheduled for 12 April 2000. The District Procurator's Office instituted disciplinary proceedings against two officers of the investigative unit of the Pervomaisky District Internal Affairs Department, including the senior investigator, for obstructing the investigation of criminal cases, and filed a report on the chief of the investigative unit, his deputy and the former unit chief. The officers of the investigative unit were severely reprimanded and the latter three persons were found to have exercised insufficient control over the work of their subordinates during the investigation.

684. Concerning Pavel Bass (ibid. para. 715), the Government stated that his account of events was contradicted by witnesses, his relatives and officers of the Oktyabsky District Internal Affairs Department. One neighbour stated that Pavel Bass had thrown various items off the balcony and on the landing, and that he had called the local militia inspector. When he knocked at the door of the apartment, Pavel Bass lunged at him with a knife. The inspector subsequently called the militia, who escorted Pavel Bass to the Oktyabsky District Internal Affairs Department. On the same day, his wife and another neighbour collected him and the neighbour

stated that Pavel Bass had showed no sign of injury. A number of his relatives confirmed that he had got drunk at his father's funeral, had smashed furniture and had attacked the neighbours, the local militia inspector and the officers with a knife. The duty officers stated that Pavel Bass had resisted vigorously, had lunged at them, but had tripped and fallen from the third floor onto the second floor landing. They arrested him and brought him to the district internal affairs department. He was released on compassionate grounds and his unlawful acts had been registered as petty hooliganism.

685. Concerning conditions of detention of remand prisoners (ibid., para. 711), the Government responded that five remand prisons in the cities of Bishek, Osh, Naryn and Karakol, and a remand prison for youths in Voznesenovka in the Chu region were designed to hold 2,425 detainees. Their average population at any one time was approximately 3,000 and was rising for several reasons, such as the shortage of fuel to transfer prisoners to court and to prisons after sentencing, as well as of disrupted rail services to transport prisoners, inter alia, from the remand prison in Osh (holding 600 remand prisoners in a facility designed for 390) to that in Bishek. The government decision to build additional remand prisons in Jalal-Abad, Talas and Chu regions has not been implemented due to financial difficulties although construction work has begun on the Chu remand centre, designed for 500 detainees. The introduction of a two-year moratorium on the death penalty had an effect on the number of persons convicted of capital offences being held in remand prison No. 1 in Bishek, designed for 36 but currently holding over 70 offenders. Detainees receive compulsory medical examinations and, when ill, are registered to receive out-patient treatment. In the case of the need for in-patient care, detainees are transferred to Bishek hospital. The budget for purchasing medicines, especially for tuberculosis, of remand centres covers only 70 per cent of requirements. The standard average food allowance amounts to 12.85 som, but only 10 som are allocated. Only 30 per cent of bedding needs are catered for. The conditions are caused by under-funding and deficient equipment and facilities.

686. Concerning living conditions of minors at the special educational facilities at Belovodskoe village (Moskovsky district), the Government replied that the school, to which minors aged 11 to 14 are referred by local commissions for minors' affairs, authorized by the Ministry of Education, can accommodate 150 pupils. Fifty-seven youngsters are enrolled and 17 have escaped, practically no effort being made to trace them. The education provided is inadequate, the sanitation substandard due to a lack of cleaning products and provision for personal hygiene, most of the bedding is threadbare, and each child only has one pair of shoes. There is no heating in the living quarters, the children suffer from colds and other illnesses and medical care is provided by a solitary health worker. The pupils receive only 15 som, instead of the specified daily food allowance of 40 som. The teaching staff is not complying with legal requirements on rehabilitating minors in their care. There is lax supervision. There is a special vocational college in Belovodskoe for troubled youths aged between 14 and 18 years, which does not ensure that the pupils are adequately trained. Of 24 registered youths in the facility, 14 had run away. Residential conditions are unsatisfactory and on-site facilities and equipment is inadequate or unsatisfactory. The teenagers live in isolation from the outside world.

687. Concerning conditions of detention at the Voznesenovka correctional labour company, the Government replied that it was intended for the rehabilitation of young male offenders serving custodial sentences and that it could accommodate 300 persons, but had a population

of 150. Inmates were held pursuant to enforceable judicial decisions. Owing to the shortage of raw materials, lack of demand for products and problems of marketing, only 22 offenders (15 per cent of the total population of the colony) were engaged in production, earning on average 3.6 som per day. The inmates are provided with three meals a day to a value of 11 som per person, the standard allowance being 13.6 som. The food ration is characterized by its monotony and low calorie content. This has been caused by under-funding and inadequate supply of essential foodstuffs to the colony. There is an acute shortage of soap, detergent and disinfectant. For five years, there has not been a standard prison uniform and prisoners have had to make do with clothing brought by relatives or through charity. Furniture is sorely in need of replacement. The clinic is staffed by two duty physicians twice a day. One hundred and seventy-one inmates were treated at the clinic and other medical institutions in 1999, for severe respiratory infections (36 cases), dermatitis (34 cases), skin inflammations (21 cases) and neurological and psychiatric disorders (29 cases). The supply of medication is satisfactory. The inspection indicated that re-equipment of the colony in line with the new Code for the Execution of Criminal Penalties was necessary, and that production activities had to be developed, including food production, with a view to providing employment for the offenders and improving the institution's financial status.

Observations

688. The Special Rapporteur appreciates the very informative replies of the Government. He considers it appropriate to draw the attention of the Commission to the concerns and recommendations of the Human Rights Committee on its July 2000 review of the initial report of the Kyrgyz Republic under the International Covenant on Civil and Political Rights. In particular, the Committee was "gravely concerned about instances of torture, inhuman treatment and abuse of power by law enforcement officials", in respect of which it recommended: "The State party should amend the Criminal Code to ensure that acts of torture are indictable offences, and that all allegations of torture are properly investigated and the persons responsible prosecuted. Complaints about torture and other abuses by officials should be investigated by independent bodies. Provision should be made for medical examination of detained persons, particularly of persons held in pre-trial detention, in order to ensure that no physical abuse of detainees occurs. The State party should institute an independent system of monitoring all places of detention with the purpose of preventing torture and other abuses of power by law enforcement officials." (CCPR/CO/69/KGZ of 24 July 2000, para. 7). It was also concerned "about the number of persons held in pre-trial detention, some of them incommunicado, that all the grounds for authorizing pre-trial detention are not exhaustively listed in the present laws, and about lack of judicial control over the prolongation of detention" (ibid., para. 9). The Committee was further concerned "about inhuman prison conditions, characterized by overcrowding, inadequate food and medical care, and at the fact that convicted persons are frequently not kept segregated from accused and that juvenile offenders are frequently detained in the same detention centres as adults" and recommended: "The State party must take measures to improve prison conditions and to ensure that juveniles are detained in segregated centres. It must ensure that all persons deprived of their liberty are treated with humanity and respect for their inherent dignity. Specifically, the State party must ensure that all detainees are afforded adequate food and medical care". (ibid., para. 11).

Lao People's Democratic Republic

689. By letter dated 5 October 2000, the Special Rapporteur advised the Government that he had received information on the following individual cases.

690. **Pa Tood** was reportedly arrested on 7 March 1999 on account of being a Christian church leader. He is said to be currently detained at the Savannakhet city jail where he is allegedly being held in solitary confinement with one leg in wooden stocks, 24 hours a day. It is further alleged that he is fed only every few days. The authorities are reportedly pressing him to sign a declaration to the effect that he agrees to abandon his Christian faith. On 17 March 1999, it is reported that Pa Tood's wife, Koom, was arrested with their baby. She was reportedly detained for seven days, during which period she reportedly had a nervous breakdown.

691. **Peto**, **Sisamouth** and **Bonme** were reportedly arrested on 25 July 1999 and sentenced to five years' imprisonment relating to their Christian religious activity. All three are reportedly being detained at the Mano prison in Luang Prabang and are allegedly being held in wooden stocks in solitary confinement in cells without natural light.

692. **Thongpaseuth Keuakoun**, **Kamphouvieng Sisaath**, **Seng-aloun Phengphanh**, **Bouavanh Chanhmanivong** and **Keochay** were reportedly arrested on 26 October 1999 for their part in organizing and taking part in a public demonstration in Vientiane calling for political change. The five men are believed to be part of the Lao Students Movement for Democracy. Thongaseuth Keuakoun is reportedly detained at the Samkhe Re-education Camp, although it is alleged that he is frequently taken from there and subjected to beatings. The whereabouts of the other four detained men is reported to be unknown and fears have been expressed that they are being similarly ill-treated.

693. By letter dated 6 November 2000, the Government responded that all allegations of ill-treatment had been deliberately fabricated to discredit the image of the Government. Torture is prohibited by the Penal Code which imposes a prison term of from three months to three years or re-education for any unlawful act or torture against a detainee or an accused person. Often-repeated allegations of mistreatment of Christian believers are false. No one has ever been arrested on account of his religious belief, which is prohibited by the Constitution, except for acts violating the laws of the country. Christian believers in Laos practice their religion freely, go to church and live in harmony with the Buddhist community.

Urgent appeals and replies received

694. On 6 January 2000, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Thongpaseuth Keuakoun, Seng-Along Phengphanh, Kamphouvieng Sisaath, Bouavanh Chanhmanivong Keochay and other demonstrators** who had been arrested after a demonstration organized by the Lao Students' Movement for Democracy in Vientiane on 26 October 1999. They were said to be held incommunicado.

695. By letter dated 31 May 2000, the Government responded that there was no demonstration on 26 October 1999, but a celebration of the Boat Racing Festival. The Lao authorities arrested on that day a group of about 10 people, mostly unemployed, who were paid from abroad to distribute leaflets against the Government and raise the flag of the former Lao regime. These acts breached the Lao Penal Code by undermining national security. These persons are awaiting trial. The timely arrest was fully in line with the government policy to transform the Lao PDR into a State where the rule of law prevailed.

696. On 9 June 2000, the Special Rapporteur sent an urgent appeal on behalf of **a number of persons** who were said to have been arrested since March 2000 following six bomb attacks, all but one in Vientiane. They were all said to be detained incommunicado.

Lebanon

Urgent appeals

697. On 17 November 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the rights of migrants on behalf of the following Sudanese asylum seekers, **Trabun Ibrahim Laku, Gilbert Kwagy, Adam Abu Bakr Adam** and **Salah Muhammad 'Abdallah**, who were reportedly held incommunicado at Furn al-Shibak General Security detention centre in Beirut, as well as about 200 Sudanese and Iraqi asylum seekers/migrants held in the same and other detention centres around the country on charges of entering the country illegally. They were allegedly tortured in order to force them to abandon their asylum applications and leave the country. **Gilbert Kwagy** is believed to have sustained a broken arm. **'Awadalla Jum'a Jarkum**, a Sudanese asylum-seeker, was reportedly detained by the Lebanese security forces on 9 October 2000 and to have initially been detained at the Furn al-Shibak General Security detention centre in Beirut, before having been transferred to Rumieh prison in Beirut. He reportedly died in Rumieh prison on 3 November 2000. No autopsy is said to have been carried out. **Trabun Ibrahim Laku** was reportedly arrested on 19 April 2000, although he lodged an asylum application with the Office of the United Nations High Commissioner for Refugees. He was reportedly sentenced to three months' imprisonment by a court for illegally entering Lebanon. He was reportedly transferred from 'Alya Prison to Furn al-Shibak General Security detention centre. When he failed to produce his passport he was reportedly beaten with batons. As a result, he is said to be partially paralysed, to be suffering from severe back pain, with a fracture to the lumbar region of the spine, and is reportedly incontinent. On 14 October 2000, after a further two months of incommunicado detention, he was reportedly released and admitted to Al-Karantina hospital. No investigation into his torture allegations is said to have been carried out.

Libyan Arab Jamahiriya

698. By letter dated 8 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998 regarding which no reply had been received.

Urgent appeals

699. On 8 March 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Sami Muhammad Sami, 'Abd al-Hafez Muhammad al Naggar, Ashraf Sulayman al-amrouni, Imam 'Awad Khabouli, Gamal Mabrouk Abu Sha'ala, 'Adel Salim Kakouka** and **Iamn Muhammad 'Attiya**, who, in the previous three weeks, had been forcibly returned to Libya from Jordan under suspicion of being sympathizers of Islamist groups. They were said to have been arrested upon return on 4 January 2000.

Malaysia

700. By letter dated 5 October 2000, the Special Rapporteur advised the Government that he had received information according to which the police routinely use excessive violence to break up demonstrations. The use of truncheons, water cannons and tear gas appears to be common. In September 1999, the police are alleged to have used water cannons filled with water laced with chemicals against a 10,000 strong demonstration in support of Anwar Ibrahim, former deputy prime minister, at the National Mosque in Kuala Lumpur. A number of people are reported to have been treated in hospital after they were beaten by police or injured by the chemicals used in the water cannons. Fourteen of the demonstrators are said to be facing trial for attending an illegal assembly or for failure to disperse.

701. The Special Rapporteur transmitted information on the following individual cases.

702. **Rosman Mohd Ariffin** was reportedly arrested at his home after demonstrations near the Prime Minister's residence on 20 September 1998 and charged with failure to disperse. He is alleged to have testified during his trial, in March 1999, that he had asked permission from five officers of the Federal Reserve Unit (FRU) to cross the road, but had been hit and kicked from behind as he did so. He fell down as he attempted to run away and was struck repeatedly by five FRU officers before being held for five days in a police lock-up. He is alleged to have signed a statement out of fear and exhaustion.

703. **Mohamad Suffian** was reportedly arrested on 17 April 1999. While in Sungai Buloh prison, he was allegedly beaten by a plain-clothed officer with a hockey stick until it broke in two. He was also reportedly slapped and punched and then placed in a small room and again assaulted by a uniformed policeman with the back of a shoe.

704. The Special Rapporteur transmitted information according to which the Immigration Department operates at least nine immigration detention camps in peninsular Malaysia and others in Sabah and Sarawak. Detainees in these camps are allegedly subjected to routine beatings and are inadequately fed and denied medical care. Domestic and international monitors have reportedly been refused access to these detainees. Detainees from Bangladesh have reportedly testified that, while held at the Tanah Merah and Semenyih camps, they were beaten and seriously injured, subjected to gross sexual abuse, kept in overcrowded, mosquito-infested rooms with foul toilets, denied water and clean clothes, and forced to stare into the sun.

705. By letter dated 23 October 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1999 regarding which no reply had been received.

Urgent appeals

706. On 19 April 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Tian Chua**, the vice-president of the National Justice Party (Parti Keadilan Nasional) (PKN), an opposition political party, **Roslan Kassim**, PKN Information Chief, **Mohd Ezam Mohd Nor,** PKN Youth Chief, **N. Gopalankrishnan**, PKN Supreme Council member, **Abdul Malek Hussain, Mohd Hafiz Hashim**, aged 17, and at least **46 other members of the PKN.** They were allegedly arrested in connection with a 15 April demonstration and were reportedly remanded in custody by a judge for further questioning. At least six of them were allegedly assaulted and were later denied medical treatment. A detainee is said to have told a magistrate that he had been beaten round the head with a truncheon and punched all over his body. The detainees are reported to have had only limited access to their laywers and not to have been allowed to see their families. Roslan Kassim was reportedly arrested on 14 April 2000 and was ordered to be detained for seven days on suspicion of inciting others to attend an illegal assembly. All the others were reportedly arrested on 15 April and were remanded in custody for up to six days, except Mohd Hafiz Hashim who is reported to have been remanded for three days.

707. On 9 August 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Lokman Noor Adam**, **N Gopalakrishnan**, **Norazimah Mohd. Noor**, **Zanaib Rahmah** and three others known as **Monas Suffian**, **Rahimah** and **Munawar** who had reportedly been arrested during a demonstration on 4 August 2000. The demonstration, which took place outside the Magistrates Court in Kuala Lumpur, was said to be in support of the former deputy prime minister, Anwar Ibrahim, the verdict in whose trial was expected to be handed down, and of about 30 people who were on trial on charges of participating in an illegal assembly. It is further reported that in a similar demonstration alleged to have taken place on 8 August 2000 outside the Hongkong and Shanghai Bank, **Tian Chuan, Abdul Malek Hussein, Monas Suffian**, **Norsuria b. Ismail**, **Putra b. Zulkarnain**, **Sabran b. Hamzah**, **Mohd. Jasni Zakaria**, **Nekmat b. Abu** and four women were also arrested. It is understood that **Norsuria b. Ismail**, **Monas Suffian**, **Putra b. Zulkarnain**, **Sabran b. Hamzah**, **Mohd. Jasni Zakaria**, **Nekmat B. Abu** and **Zainal Abidin Hashim** had been charged with participating in an illegal assembly and were appearing before the Magistrate on the date the urgent appeal was sent. On 4 August 2000, **Lokman Noor Adam,** youth leader of the National Justice Party, was reportedly beaten and punched by five plain-clothed men at the time of arrest, and was later brought before a magistrate charged with taking part in an illegal assembly. It is understood he is still detained. On 8 August 2000, **Tian Chuan** was detained at Ibu Pejat Kontijen, where he was separated from the other demonstrators and taken to the Serious Crime Department. There he was reportedly surrounded by a number of police officers, including a superintendent and two chief inspectors, whereupon he was allegedly kicked and pushed to the floor. He was then reportedly taken to a police cell, where other inmates were encouraged by the police to assault him. When **Sabran B. Hamzah** was arrested at the demonstration on 8 August 2000, he was punched in the face and kicked in the stomach by four or five uniformed police officers.

Maldives

Urgent appeals

708. On 10 January 2000, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Umar Jamal, Ibrahim Ahmed Maniku** and **Abdul Rasheed,** all candidates in the November 1999 parliamentary elections. Umar Jamal was reportedly detained at his house on 29 October 1999 after an argument with a rival candidate. He was reportedly taken to Dhoonidhoo detention centre. The two other candidates from Thaa Atoll have reportedly been detained since early November 1999. They were first reportedly taken to Dhoonidhoo detention centre, where they were allegedly deprived of sleep for several days, forced to sit on stools in rain and storms, and beaten every time they fell asleep. It is believed that they have recently been transferred to house arrest.

Mali

709. By letter dated 8 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1999 regarding which no reply had been received.

Mauritania

Urgent appeals

710. Le 17 novembre 2000, le Rapporteur spécial a envoyé un appel urgent conjoint avec le Président-Rapporteur du Groupe de travail sur la détention arbitraire en faveur de **Ahmed Ould Lafdal, Mohamed Ould Haroun, Ahmed ould Wedoaa** et **Ahmed Bah**, tous membres de la coalition de partis d'opposition l'Union des forces démocratiques/Ere nouvelle (UDF/EN). Ils auraient été arrêtés par la police à Nouakchott le 9 novembre 2000. **Sidi Ould Salem**, membre de l'UDF/EN, aurait également été arrêté le 11 novembre. Huit femmes, dont **Mariène Mint Saiga** et **Benina Mint Chedad**, membres de l'UDF/EN, auraient aussi été arrêtées le 13 novembre. Tous seraient détenus au secret dans un lieu inconnu.

Mexico

711. Con fecha 10 de octubre de 2000, el Relator Especial notificó al Gobierno que había recibido información sobre los siguientes casos. Por carta de fecha 1º de diciembre de 2000 el Gobierno respondio sobre algunos casos.

712. **Lino González Espinoza,** campesino de la municipalidad de Coahuayana, habría sido detenido el 25 de junio de 1999 por la Policía Judicial del Estado (PJE) y conducido a la prisión de Coahuayana. Habría sido torturado para que confesara sobre un asesinato que él habría dicho que no cometió. Un defensor local de derechos humanos, que habría visitado a Lino González, habría visto las marcas de torturas en su cuerpo.

713. El 4 de agosto de 1999, cerca de 150 miembros de la Seguridad Pública y del Agrupamiento de Granaderos se habrían enfrentado con estudiantes y padres de familia que protestaban contra las nuevas políticas económicas de la Facultad de Derecho de la Universidad Nacional Autónoma de México. Los miembros de la policía capitalina habrían encañonado a los manifestantes con sus armas y habrían golpeado a varios de ellos, 107 personas habrían sido arrestadas y posteriormente liberadas. Sesenta y dos personas habrían sufrido lesiones, y habrían existido casos de presuntos abusos sexuales, de tortura y amenazas contra los estudiantes, hechos que habrían sido denunciados.

714. **Digna Ochoa y Plácido**, abogada, coordinadora del Área Jurídica del Centro de Derechos Humanos Miguel Agustín Pro Juárez (PRODH), habría sido atacada en su casa de la Ciudad de México en la noche del 28 de octubre de 1999. Individuos desconocidos habrían ingresado a su vivienda, la habrían amordazado, le habrían vendado los ojos y la habrían interrogado por espacio de nueve horas sobre sus actividades y las de sus colegas. Habría sido presionada a firmar papeles, lo que rehusó. Posteriormente habría sido dejada inconsciente sobre su cama, atada y cerca de un escape de gas abierto.

715. El Gobierno respondió que la Comisión Nacional de Derechos Humanos inició el 3 de septiembre de 1999 el expediente, que solicita la adopción de medidas de prevención necesarias para asegurar y garantizar la integridad física y psicológica de la licenciada Digna Ochoa y de más miembros del centro. El 8 de septiembre se abrió el expediente a petición de la licenciada Digna Ochoa y otros integrantes. Todas las denuncias han sido documentadas y enviadas a la Procuraduría General de la Región. Con respecto a Edgar Cortés Morales, Mario Patrón Sánchez y Jorge Fernández, no han solicitado la protección. La Procuraduría espera recibirlos para acordar la protección necesaria.

716. Un total de 250 estudiantes huelguistas de la UNAM habrían sido golpeados y arrestados por la policía en la Ciudad Universitaria de la Ciudad de México el 1º de febrero de 2000. Durante la detención habrían recibido golpes en el rostro y habrían sido maltratados. Luego de los enfrentamientos entre estudiantes y empleados universitarios, más de 400 agentes de la Policía Federal Preventiva (PFP) habrían entrado en la Escuela Nacional Preparatoria 3 y habrían arrestado a los estudiantes huelguistas, que habrían sido golpeados. Al menos 37 personas habrían resultado con heridas.

717. El Gobierno respondió que la Procuraduría General Regional (PGR) informó de que a raíz del conflicto universitario (1º a 6 de febrero de 2000) que paralizó las actividades de la UNAM fueron puestas a disposición del ministerio público de la Federación un total de 998 personas. La situación jurídica de cada una de ellas fue determinada dentro de los plazos y términos que señala la ley. Todas ellas recibieron un trato digno y decoroso, y a fin de evitar cualquier malentendido, las diligencias ante el Ministerio Público y la presencia de estas personas en la PGR fueron grabadas en vídeo. A pesar de que ninguna procuraduría o instancia del país cuenta con los medios suficientes para dar cabida a tantas personas al mismo tiempo, se consiguió salvaguardar sus derechos, respeto y dignidad, aunque la comodidad estuviese limitada. En cuanto se tuvo conocimiento de la identidad de las personas, se informó a sus familiares y amigos; asimismo, esta información se difundió en los medios de comunicación. A todas las personas detenidas por los hechos del 1º al 6 de febrero se les ofreció comidas, desayunos e instalaciones sanitarias correspondientes, al igual que tuvieron acceso al teléfono.

También se permitió el ingreso a las instalaciones de la PGR a familiares y representantes de organismos no gubernamentales de derechos humanos. Los presentados rindieron su declaración ante defensores de oficio, estos últimos totalmente independientes de la PGR y el ministerio público. A los medios de comunicación se señaló el hecho de que algunas personas habían sufrido agresiones físicas por parte del personal de la PGR. Quedó constatado que, aparte de los certificados médicos levantados en la PGR y en el momento del ingreso, ninguna de las personas mencionadas presentaba lesiones. Para evitar cualquier duda, el titular del ministerio público de la federación determinó la integración de una comisión a fin de atender las quejas tanto de los padres de familia, organismos no gubernamentales, así como comisiones públicas de derechos humanos. El 25 de febrero, la PGR retiró los cargos de sabotaje y terrorismo en contra del grupo de personas que participó en los hechos del 1º de febrero, con lo que las 86 personas procesadas ya no tendrán que responder por estos delitos. El 3 de marzo, de los 225 detenidos, 131 se acogieron a la libertad condicional, mientras que los 94 restantes no pudieron obtener ese beneficio porque 90 cometieron delitos graves y de 4 se consideró que podían volver a reincidir. Actualmente todos los detenidos gozan de libertad.

718. **Rodolfo Montiel y Teodoro Montiel Cabrera** habrían sido detenidos el 2 de mayo de 1999 por miembros del 40º Batallón de Infantería de Pizotla en el Municipio de Ajuchitlán, Estado de Guerrero. Mientras estaban supuestamente detenidos e incomunicados bajo custodia militar, habrían sido torturados para obligarlos a firmar confesiones autoincriminatorias; con posterioridad habrían sido acusados de delitos relacionados con tránsito de drogas y armas de fuego. Desde entonces ellos habrían estado detenidos en una prisión civil esperando un proceso ante el Juzgado Quinto de Distrito de Iguala.

719. El Gobierno respondió que, según la información que han recibido sobre los casos mencionados, a la aprehensión de los nombrados, no fueron objeto de violencia alguna. Sobre el caso, el Gobierno informó de que había expedientes penales según los cuales los nombrados eran probables responsables de delito de homicidio.

720. **Octaviano Hernández Pacheco,** su esposa **Juana José José,** y su hijo **Jaime Hernández Pacheco**, de 12 años, quienes se encontraban durmiendo, habrían sido golpeados el 22 de mayo de 2000 por 13 personas que pertenecerían a la Policía Federal del Estado, Policía Preventiva y presuntamente del Ejército Federal. Dichas personas habrían entrado en su vivienda en la comunidad indígena de San Isidro Miramar, Municipio de San Agustín Loxicha, Estado de Oaxaca, y habrían registrado la casa. A raíz de los golpes, Juana José José habría perdido el conocimiento. Posteriormente, los mismos agentes, tres de ellos encapuchados, se habrían dirigido al domicilio de **Andrés Enríquez Fernández**, quien, al igual que su esposa **Octavia Enríquez Fernández**, habría sido golpeado y detenido sin que se les informara del motivo ni del lugar donde serían conducidos. Juana José José habría sido tirada al piso y presentaría golpes localizados principalmente en cuello y miembros inferiores. Octaviana Enríquez Santiago habría sido golpeada y amenazada de muerte con un arma. Octaviano Hernández y Andrés Enríquez habrían sido detenidos en la prisión local del Estado de Eftla. De acuerdo a la fuente ambos habrían sido acusados de homicidio y de pertenecer al Ejército Popular Revolucionario (EPR). Otros miembros de la comunidad de indígenas zapatecos habrían sido golpeados y habrían recibido amenazas de muerte.

721. El 19 de junio de 2000, numerosos agentes de la policía judicial y de la policía local de Río Bravo y Reynosa habrían irrumpido violentamente en la empresa Duro Bags Manufacturing en Río Bravo, Tamaulipas, donde los trabajadores habrían declarado un paro laboral. Los agentes habrían golpeado a los empleados, hombres y mujeres, y detenido a los dirigentes del movimiento laboral; una trabajadora, mientras era apuntada con una ametralladora habría recibido amenazas de muerte. Otra de ellas, embarazada de ocho meses, habría sido golpeada severamente en el abdomen, lo que habría provocado su hospitalización.

Urgent appeals and replies received

722. El 14 de enero de 2000, el Relator Especial envió un llamamiento urgente en favor de **Omar Sanvicente Gutiérrez** y **Juan Manuel López Vallafane**, detenidos respectivamente el 7 y 8 de diciembre de 1999. Habrían sido detenidos incomunicados por agentes judiciales del Estado de Tlaxacala y agentes federales. Habrían sido obligados a firmar una declaración elaborada por los mismos policías judiciales con la amenaza de que, en caso de no firmarla, asesinarían a su familia. Habría sido golpeado entre el 8 y el 11 de diciembre de 1999.

723. Por carta de fecha 26 de mayo de 2000, el Gobierno informó de que la Comisión Nacional de Derechos Humanos inició un expediente con fecha 21 de diciembre de 1999. Por su parte la Procuraduría General de la República informó de que el subdelegado de procedimientos penales de Tlaxacala comunicó que, previa revisión de los libros de Gobierno de las cédulas de procedimientos penales y de la subdelegación de la Policía Judicial Federal de esa circunscripción, no se encontró antecedente alguno de averiguaciones previas, procesos penales y mandamientos judiciales que tuvieran relación con sus casos. El Gobierno, posteriormente, por carta de fecha 10 de agosto, señala que el presente expediente fue turnado a la Segunda Visitaduría General y concluido por orientación el 31 de marzo de 2000.

724. El 7 de julio de 2000, el Relator Especial envió un llamamiento urgente conjuntamente con el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias en favor de **Nicolás Basilio Enríquez,** quien trabajaría para una organización indígena, Asociación Indígena Activa, en el Estado de Veracruz cercano a Oaxaca. El 15 de junio, el nombrado, junto a otras personas de la comunidad de Cruz Verde, fue parado por la policía cuando viajaban en un camión a la capital municipal Playa Vicente. Habría sido desnudado por elementos de la Policía Federal del Estado. Le habrían vendado los ojos y habría recibido descargas eléctricas durante el interrogatorio acerca de su supuesta vinculación con un grupo de oposición armado y sobre tráfico de drogas.

725. El Gobierno respondió que el caso de Nicolás Basilio Enríquez se remitió a la Comisión Nacional de Derechos Humanos. La Procuraduría General de Justicia del Estado de Veracruz informó, por su parte, de que tras realizar una búsqueda en sus archivos, no había ningún dato en donde se hiciera referencia al nombrado. La Subprocuradora regional de justicia de la zona centro en Córdoba, el 28 de agosto del año en curso, instruyó al agente del ministerio público municipal de Playa Vicente para que dé inicio a la averiguación previa, la integre y cite a la mayor brevedad posible al agraviado Nicolás Basilio Enríquez.

726. Por carta de fecha 14 de diciembre de 2000, el Gobierno informó de que la Comisión Nacional de Derechos Humanos recibió el 3 de julio, un escrito de queja sobre su caso.

727. El 13 de julio de 2000, el Relator Especial envió un llamamiento urgente conjuntamente con el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias en favor de **Benito Almaraz Enríquez, Jordán Almaraz Silva, Arnulfo Almaraz Valencia, Eleno Hernández Almaraz, Genaro López Ruiz, José Pacheco Contreras, Guillermo Pacheco Pacheco, Silvano Pacheco Pacheco** y **Agustín Pacheco Hernández,** de la región de Loxicha, en el Estado de Oaxaca. El 7 de julio de 2000 habrían sido sentenciados a 40 años de prisión, después de un juicio aparentemente injusto que incluiría confesiones hechas bajo torturas. La defensa estaría interponiendo una apelación. Desde agosto de 1996 más de 130 indígenas zapotecos habrían sido detenidos y acusados de pertenecer al grupo de oposición armado Ejército Popular Revolucionario (EPR). Los últimos arrestos habrían ocurrido el 25 de mayo de 2000 y de acuerdo a la fuente habrían sido acompañados de golpes, amenazas y sin orden judicial. Habrían estado detenidos no oficialmente durante 5 ó 6 días en los cuales habrían sido golpeados, torturados con descargas eléctricas, amenazados de muerte y habrían sido obligados a firmar papeles en blanco con confesiones falsas. Sólo 25 de los 60 originariamente detenidos habrían sido sentenciados con cargos como terrorismo, conspiración, intento de homicidio y acopio de armas. Otros 47 habrían sido liberados, algunos de los cuales no habrían regresado a sus casas por temor a otros abusos. A pesar de las denuncias presentadas tanto al Ministerio Público como a la Comisión Nacional de Derechos Humanos, se creería que no habría investigaciones sobre la tortura. Los familiares de los detenidos habrían sufrido intimidaciones y hostigamientos desde las detenciones y algunos habrían dejado sus casas en resguardo de su seguridad. **Israel Ochoa Lara**, abogado defensor de los prisioneros de Loxicha, también habría sufrido hostigamientos.

728. El Gobierno respondió que según la Procuraduría General, en la agencia del ministerio público de Oaxaca se encuentran registradas las investigaciones hechas en contra de Eleno Hernández Almaraz, Agustín Pacheco Hernández y otros. Se han realizado averiguaciones para poder certificar los otros actos ilícitos cometidos contra Juvenal Pacheco Ramírez. En las investigaciones llevadas a cabo contra los arriba mencionados se hicieron constar los siguientes delitos. En primer lugar, como probables responsables del delito de amenazas, y en segundo lugar como probables responsables del delito de homicidio. La tercera investigación se llevó a cabo exclusivamente contra Eleno Hernández Almaraz como posible responsable del delito de lesiones, esta vez en contra de Lázaro Ramírez Juárez. Con fecha 10 de abril de 1997, el juez de primera instancia de San Pedro Pochutla, habiendo conocido las investigaciones realizadas en contra de los arriba mencionados, ejercitó acción penal y los encontró culpables del delito de homicidio de Juvenal Pacheco Ramírez. En el juzgado de primera instancia de San Pedro Pochutla se encuentran los expedientes penales de los encausados. Los arriba mencionados fueron encontrados culpables. Todos ellos interpusieron recurso de apelación, que está todavía pendiente. Los encausados se encuentran internados en el centro de readaptación social de Almoloya de Juárez, a excepción de Eleno Hernández Almaraz, que se encuentra recluido en el reclusorio de ETLA, Oaxaca.

729. El 7 de noviembre de 2000, el Relator Especial envió un llamamiento urgente conjuntamente con el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias sobre la siguiente situación. El 26 de octubre de 2000, en el contexto de una campaña contra la tortura, diversos activistas de derechos humanos llevaron a cabo una manifestación enfrente de la prisión de Topo Chico, Estado de Nuevo León. Después de su celebración, el Jefe de Seguridad de dicha prisión habría culpabilizado de la misma a **Héctor Pérez Córdova** y supuestamente habría ordenado su confinamiento durante siete días, aislado y sin recibir comida ni la medicación que necesita para paliar la esclerosis múltiple que padece.

730. Por carta de fecha 12 de diciembre de 2000, el Gobierno respondió que las autoridades han suministrado oportunamente a Héctor Pérez sus alimentos y los medicamentos que son prescritos y que el nombrado no los aceptó. El nombrado recibió una corrección disciplinaria consistente en trasladarlo a otro dormitorio por un período de siete días. Según el reglamento de los centros de readaptación social y de los centros preventivos de reclusión del Estado de Nuevo León, la conducta señalada puede ser castigada hasta por un período máximo de 15 días en aislamiento. Por eso, cada vez que el nombrado ha realizado imputaciones falsas, se ha optado por obtener recibos de entrega de medicamentos.

731. El 24 de noviembre de 2000, el Relator Especial envió un llamamiento urgente conjuntamente con el Presidente-Relator del Grupo de Trabajo sobre la detención arbitraria sobre **Remedios Alonso Vargas** y sus hijos **Irineo** y **Luciano Mederos Alonso,** quienes habrían sido detenidos el 24 de octubre de 2000 por agentes de la Policía Judicial del Estado de Guerrero y acusados de haber secuestrado a un hombre. Habrían sido trasladados a la Jefatura de la Policía Judicial en Petatlán, en la que habrían permanecido en régimen de incomunicación durante dos días. El 26 de octubre, habrían sido trasladados a la Jefatura de la Policía Judicial en Ciudad Altamirano, donde supuestamente habrían sido torturados. A Remedios Alonso Vargas le habrían puesto una bolsa en la cabeza y la habrían amenazado con asfixiarla de no confesar el secuestro. Asimismo, a Irineo y Luciano Mederos les habrían vendado los ojos y golpeado con armas de fuego. Habrían sido obligados a firmar confesiones preparadas de antemano y que no tuvieron oportunidad de leer. El 31 de octubre, habrían sido trasladados al Centro de Readaptación Social (Cereso) de Coyuca de Catatlán, en el que permanecerían actualmente. Ese día habrían comparecido ante un juez del Juzgado de Primera Instancia en Materia Penal de Coyuca de Catatlán que dictó entonces una orden formal de detención contra ellos.

Follow-up to previously transmitted communications

732. Por carta con fecha 10 de septiembre de 2000, el Gobierno respondió a los siguientes casos enviados en noviembre de 1998 (E/CN.4/1999/61).

733. Respecto al caso de la comunidad de San Agustín Loxicha (ibid., párrs. 461 y 462) sobre el cual el Gobierno respondió en noviembre de 1998 (E/CN.4/2000/9, párrs. 758 y 759), el Gobierno informó de que los escritos de queja presentados por Adrián Ramírez y Armando Doroteo García son los mismos que fueron acumulados, toda vez que los hechos que motivaron las quejas se encuentran estrechamente vinculados. El 11 de noviembre fue recibida la queja que dio origen al segundo expediente mencionado, en el cual se incluye el caso de Amadeo Valencia Juárez, denunciando un operativo policíaco militar en San Agustín Loxicha, Oaxaca, en el que varias personas fueron detenidas, supuestamente de forma arbitraria y sin

orden de aprehensión alguna, señalando como presuntos responsables los servidores públicos de la Secretaría de la Defensa Nacional, de la Procuraduría General de la República y de la Procuraduría del Estado de Oaxaca. Analizado el expediente, la Comisión no encontró elementos que permitan acreditar todas las irregularidades señaladas en los escritos de queja, toda vez que la detención de los supuestos agraviados se llevó a cabo en cumplimiento de las órdenes de las autoridades competentes.

734. Respecto al caso de Daniel Colín Enciso y otros (E/CN.4/1999/61, párr. 466) y sobre el cual el Gobierno respondió en noviembre de 1998 (E/CN.4/2000/9, párr. 764), el Gobierno informó de que la autoridad judicial determinó que Óscar Palacios Flores, Alfredo Medrano García, Joel Calvo Ramírez, Guillermo Macedo Mata, Rita Becerra López, Agustín Lara Martínez, José Nicolás Leyte Salas, Fermín Aguilar Cortez, Miguel Ángel García Villalobos y Alejandro Hernández Zamudio, eran penalmente responsables del delito de homicidio calificado y, además, Óscar Palacios, Alfredo Medrano García, Joel Calvo Ramírez y Guillermo Macedo Mata resultaron penalmente responsables del delito de abuso de autoridad y se les impuso a cada uno de ellos una pena de 50 años de prisión. De otra parte, a Eleazar Armando Pérez Zavala y Óscar Manuel Bazán Figueroa se les impuso una sanción de 18 años y 6 meses de prisión, por los delitos de homicidio simple intencional y abuso de autoridad. Se absolvió de la indemnización por concepto de reparación del daño a los culpables de los delitos de homicidio calificado y homicidio simple intencional, por no existir en el sumario bases para su cuantificación. Actualmente se encuentra substanciándose el recurso de apelación presentado por los inculpados y el agente del ministerio público, en contra de la sentencia.

735. Respecto al caso de Pedro Anaya y otros (E/CN.4/1999/61, párr. 472), los niños de la calle detenidos el 14 de abril de 1988, no se logró la comparecencia de los menores agraviados, toda vez que éstos no tenían interés en la continuación de la queja, y solicitaron que el expediente se enviara al archivo; razón por la cual fue aprobado el no ejercicio de la acción penal correspondiente.

736. Respecto al caso de Manuel Ramírez Santiago y Fermín Oseguera Santiago (ibíd., párr. 474), el Gobierno informó de que después de haber realizado una búsqueda minuciosa en los archivos de la Procuraduría, no se encontró antecedente alguno relacionado con los antes mencionados, ni tampoco de Vicente Luna Gurroa y Miguel Amaya Rodríguez.

737. Respecto al caso de Martín Barrientos Cortés (ibíd., párr. 476), el Gobierno informó de que el caso se encuentra en integración y pendiente de dictarse la determinación que en derecho corresponda. La averiguación previa ordenada por la Procuraduría debe contar con la ratificación de la declaración inicial de Barrientos Cortés, rendida ante el agente del ministerio público de la Federación. Al no haber sido posible lograr su comparecencia, se ha demandado la colaboración de la Comisión Nacional de Derechos Humanos, a fin de que por su conducto comparezca el supuesto agraviado con el fin de dictar la determinación correspondiente.

738. Respecto al caso de Felipe de Jesús Barrón Chávez (ibíd., párr. 480), el Gobierno informó de que se había iniciado un proceso administrativo en contra de los policías Alfredo Rodríguez Sanabria y Juan Segura Victoria, sobre el que se dictó acuerdo de improcedencia en razón de que el agraviado no compareció ante el órgano de control.

739. Por carta de fecha 10 de septiembre de 2000, el Gobierno respondió a algunos casos enviados en octubre de 1999 (E/CN.4/2000/9).

740. Respecto al caso de Miguel Hernández de la Cruz y Juan Chivarras de la Cruz (ibíd., párrs. 741 y 742), el Gobierno informó de que los antes mencionados recibieron auto de formal prisión por parte del Juez Cuarto de lo Penal por los delitos de homicidio y robo calificados. Fueron trasladados el día 28 de diciembre de 1988 al Reclusorio Preventivo Metropolitano de Puente Grande. Los detenidos aceptaron en su declaración ante el ministerio público haber estrangulado y robado al periodista extranjero. El Gobierno informa de que de las circunstancias que obran en los expedientes no se deriva que los acusados hubieran sido sometidos a tortura. En todo caso, la Cuarta Visitaduría General de la Comisión Nacional de Derechos Humanos inició el 18 de diciembre de 1998 el expediente por el caso del homicidio del periodista y mantiene comunicación con la Procuraduría General de Justicia de Jalisco para conducir la investigación.

741. Respecto al caso de Elvia García Quiñones (ibíd., párr. 745), el Gobierno informó de que se encuentra en archivo toda vez que el padre de la agraviada se presentó a la Procuraduría afirmando que su hija ya no se encuentra radicada en la ciudad de Atoyac, Guerrero, por haber emigrado a los Estados Unidos y que por esta razón no tiene ningún interés en que se sigan las investigaciones.

742. Respecto al caso de Lorenzo Téllez González (ibíd., párr. 746), el Gobierno informó de que un agente del ministerio público se entrevistó con el antes mencionado y le mostró el álbum fotográfico de los servidores públicos adscritos a la Procuraduría de Guerrero. Téllez manifestó que no reconocía a nadie y que no estaba seguro de que las personas que los detuvieron fueran agentes de la Policía Judicial Federal. De otra parte, la queja presentada ante la Comisión Nacional de Derechos Humanos fue concluida por dicho organismo, ya que determinó la competencia a favor de la Comisión Estatal de Derechos Humanos de Guerrero.

743. Por cartas con fechas 25 de mayo y 6 de septiembre de 2000, el Gobierno respondió a un llamamiento urgente enviado en mayo de 1999 (ibíd., párr. 750). En relación con la detención del grupo militar autodenominado "Comando patriótico de conciencia del pueblo", por los hechos ocurridos el 18 de diciembre de 1988, y cuyos miembros fueron acusados de diferentes delitos militares, por necesidades de servicio y para evitar que el citado grupo infringiera la disciplina en el interior de la prisión militar se concedió el cambio de jurisdicción y se les consignó en las prisiones militares de Mazatlán, Sinaloa y Guadalajara, Jalisco, donde se encuentran cumpliendo sus sentencias. Con relación a Hildegardo Bacilio Gómez, el Gobierno dice que con fecha 7 de abril de 1999 simuló una huelga de hambre y que el 21 del mismo mes, ante la visita de integrantes de la Comisión Nacional de Derechos Humanos, decidió aislarse junto con otros nueve prisioneros, negándose a tomar sus alimentos. Posteriormente intentó dos veces suicidarse, razón por la cual se ordenó un examen psicológico. Respecto a José Hernández Zamudio, se recomendó después de su autoagresión, una evaluación psicológica y psiquiátrica seguida de una atención médica. El Gobierno señaló que no se acreditan violaciones a los derechos humanos de Hildegardo Bacilio Gómez y otros integrantes del mencionado comando militar, que durante las visitas realizadas por funcionarios de la

Comisión Nacional de Derechos Humanos los supuestos agraviados señalaron no haber sido golpeados o maltratados, ni haber estado incomunicados; asimismo informó de que sus procesos se encuentran en etapa de instrucción y que la queja se encuentra concluida.

744. Por carta con fecha 16 de junio de 2000, el Gobierno respondió a un llamamiento urgente enviado en julio de 1999 sobre Rodolfo Montiel Flores y Teodoro Cabrera García (ibíd., párr. 753). Fueron detenidos y acusados de haber participado en la agresión que sufrió el 2 de mayo de 1999 la Brigada Arciniega, en Pizotlá, Guerrero, y puestos a disposición del Ministerio Público Federal de Coyuca de Catatlán, Guerrero, como presuntos responsables de los delitos de asociación delictuosa, portación de arma de fuego de uso exclusivo del Ejército, Armada y Fuerza Aérea, delito contra la salud en su modalidad de posesión de semilla de adormidera y marihuana, así como homicidio en grado de tentativa. Fueron recluidos en el Cereso de Iguala. Ese mismo día se les practicó la prueba de radisonato de sodio, resultando positiva en ambos. Los detenidos reconocieron como suyas las armas objeto del delito. El Gobierno señala que, según declaraciones de Montiel Flores, la agresión perpetrada en contra del personal militar se encontraba dirigida contra un grupo integrado aproximadamente por 40 personas encabezadas por Bernardo Bautista Valle, debido a que éstos se oponen al activismo que "los ecologistas", organización a la que pertenecen los acusados, realizan en contra de los madereros de la región de la Costa Grande y Tierra Caliente, Guerrero. El Gobierno declara que la Comisión Nacional de Derechos Humanos sigue de cerca la situación de ambos detenidos y concluye que es falso que, al momento de la detención, Montiel Flores haya sido objeto de abusos de cualquier tipo o cualquier acto contra la dignidad.

745. Por cartas de fechas 26 de mayo y 10 de septiembre de 2000, el Gobierno respondió a un llamamiento urgente enviado en agosto de 1999 sobre Natividad y Victoriano Parra Flores (ibíd., párr. 754). Es falso que se haya detenido de manera ilegal y con allanamiento de morada a quienes presentaron esta queja. El Juez de Primera Instancia del Distrito Federal de Galiana dictó orden de aprehensión para José Natividad, Jesús Manuel y Victoriano Parra Flores por el delito de homicidio en grado de tentativa contra Pascual Zavala López, así como los delitos de secuestro, homicidio e inhumación clandestina contra Francisco Ramos Mendoza. El Gobierno niega haber detenido a Andrés Parra Flores. Mediante acuerdo de 22 de septiembre de 1999, el juez del conocimiento ordena la acumulación de las causas penales, en razón de tratarse de los mismos acusados y el mismo delito, actualmente en período de instrucción. El juez se declaró incompetente por cuanto hace al acusado Jesús Manuel Parra, motivo por el cual fue puesto a disposición del Consejo Tutelar para menores infractores.

746. Por carta de fecha 10 de septiembre de 2000, el Gobierno respondió a un llamamiento urgente enviado en noviembre de 1999 sobre Jocobo Silva Nogales, Felicitas Padilla Nava, Gloria Arena Ajis y Fernando Gatica Chino (ibíd., párr. 755). Tanto el proceso penal contra los acusados como la queja administrativa presentada en contra del Juez Primero en materia de procesos penales federales, se están realizando con estricto apego a las disposiciones legales. La queja antes mencionada fue presentada por los abogados de los acusados, a quienes se les ha impedido ejercer su función. El Gobierno informó, en relación con el caso, de que la Comisión Nacional de Derechos Humanos inició el expediente de queja actualmente en proceso de integración. Posteriormente con fecha 1º de marzo de 2000 se realizó una visita a los agraviados en la que los mismos manifestaron no tener ninguna queja respecto a su trato en general; sin

embargo, solicitaron ayuda sobre dos puntos, en investigación a la fecha. Con fecha 3 de julio la Comisión de Derechos Humanos del Estado de Guerrero emitió una recomendación para que se iniciara un procedimiento administrativo contra el Agente del Ministerio Público del Fuero Común por haber intervenido en la detención ilegal de los menores Berenice, Judith, David, Elizabeth y Celina Gatica Padilla, hijos de los inculpados. Asimismo se recomendó al Procurador para que iniciara la averiguación previa respectiva por los delitos de privación ilegal de la libertad, abuso de autoridad, y lo que resulte en agravio de dichos menores.

747. Por carta de fecha 1º de diciembre de 2000, el Gobierno respondió a los siguientes casos enviados por el Relator Especial en octubre de 2000 (E/CN.4/2000/9).

748. Respecto al caso de Arturo Ríos Morales (ibíd., párrs. 743 y 744), la Procuraduría General de Justicia del Estado de Guerrero informó a la dirección general de que el 28 de septiembre de 1998 en la agencia del ministerio público del fuero común de Atoyac (distrito de Galeana), compareció Bernardo Flores Morales, quien presentó una denuncia contra los posibles responsables del secuestro de su hermano, Emiterio Flores Morales. Asimismo hizo constar que quien planeó y participó en el secuestro fue Arturo Ríos Morales, jefe de una banda, el 29 de septiembre de 1998. Se detuvo a Arturo Ríos Morales para evitar que huyese de la acción de la justicia. El certificado médico demostró que el acusado se encontraba en buenas condiciones de salud, a excepción de unas patologías dermoepidérmicas. Arturo Morales reconoció su participación en los hechos. Fue puesto en libertad el 30 de septiembre de 1998 gracias a la manifestación del Partido de la Democracia. El 1º de noviembre de 2000, al agente del ministerio público se le ordenó que se entrevistase con el agraviado (Emiterio Flores Morales), para tomarle declaración y resolver el asunto. En relación con este caso, el agraviado no aporta medios de prueba sobre la relación de Lorenzo González en el caso, por lo que se dio por concluido el expediente.

749. Respecto al caso de Elvia García Quiñones (ibíd., párr. 745), la Procuraduría General de Justicia del Estado de Guerrero informó de que el agente del ministerio público que conocía sobre el caso de Elvia García Quiñones la citó tres veces para que compareciese a ampliar su declaración, cosa que no hizo. No se dan los elementos suficientes para probar el delito de lesiones y privación de libertad que la demandante solicitaba. Teniendo en cuenta todos los hechos y siguiendo la legislación de los procedimientos penales del Estado de Guerrero, se dejó en reserva el caso. El 19 de junio de 2000, el padre de la demandante se presentó en la Procuraduría para informarles de que su hija ya no estaba en el país y por consiguiente no era necesario proseguir las investigaciones.

Observations

750. The Special Rapporteur appreciates the replies of the Government on some individual cases. Despite his exhortation last year (E/CN.4/2000/9, para. 782), the Government has still provided no indication of any steps taken to give effect to the recommendations contained in the report on the Special Rapporteur's visit in 1998 (E/CN.4/1998/38/Add.2). He can only hope that the new Administration will manifest greater political will than that evidenced by the previous one with regard to implementing the measures necessary to put an end to the extensive resort to torture documented in his report.

Morocco

751. Par une lettre datée du 14 août 2000, le Rapporteur spécial a informé le gouvernement qu'il avait reçu des renseignements pertinents à son mandat. Le gouvernement y a répondu par une lettre datée du 24 novembre 2000.

752. Selon ces renseignements, la durée légale de détention au secret, soit 72 heures, ne serait pas toujours respectée au Sahara occidental. Ce serait pendant cette période que la majorité des cas de torture aurait été signalée. De plus, la législation marocaine ne rendrait pas inadmissibles devant les cours de justice les confessions obtenues sous la contrainte. Au contraire, selon les dispositions 291-294 du Code de procédure pénale, les procès-verbaux obtenus dans les postes de police ne pourraient être écartés que par des faits contraires apportés pendant le procès.

753. Le gouvernement a indiqué que la détention au secret n'est pas envisagée par le Code de procédure pénale. La durée de la garde à vue, qui a lieu dans les postes de police, est fixée à 48 heures. La personne doit être alors conduite devant le Procureur du Roi qui, après audition, peut décider de prolonger cette garde à vue pour une seule nouvelle période de 24 heures. Exceptionnellement, en cas d'infraction flagrante, cette prolongation peut être autorisée par un procureur sans que la personne ne lui soit physiquement présentée. Ces délais sont doublés lorsque l'infraction reprochée consiste en une atteinte à la sûreté de l'État. Depuis 1991, les officiers de la police judiciaire sont tenus d'informer la famille et le Procureur du Roi de toute arrestation, ainsi que d'en enregistrer l'heure. La famille peut solliciter les services d'un avocat pour assister toute personne inculpée après sa remise aux autorités de justice. En outre, le procureur et le juge d'instruction sont tenus par le Code de procédure pénale, lorsque la demande leur en est faite ou lorsqu'ils constatent des indices qui le justifient, de soumettre toute personne inculpée à un examen médical, qui sera confié à un médecin-expert.

754. Concernant la détention préventive, le gouvernement a indiqué qu'elle ne pouvait être décidée que sur mandat d'un juge d'instruction, et pour une durée de deux mois renouvelables cinq fois par des ordonnances spécialement motivées. La détention préventive reste une mesure exceptionnelle justifiée par les besoins de l'enquête.

755. Les fonctionnaires responsables des arrestations et des détentions provisoires sont soumis au contrôle du parquet, au moins une fois par trimestre, et du président de la chambre correctionnelle de la cour d'appel. De même, dans toutes les provinces ou préfectures, une commission présidée par le gouverneur et composée de juges, de procureurs, d'un médecin et de membres désignés par le Ministre de la justice est chargée de veiller à la sécurité et aux conditions de vie des détenus. Les fonctionnaires du Ministère des droits de l'homme effectuent aussi des visites régulières et font le suivi des plaintes reçues des détenus et des organisations de défense des droits de l'homme.

756. Bien que le Code pénal n'en fasse pas une infraction distincte, le gouvernement a précisé que les actes de torture sont strictement interdits par la législation nationale qui régit, entre autres, les cas d'abus de pouvoir, de coups et blessures et d'atteintes à la liberté individuelle.

757. Finalement, le gouvernement a fourni des renseignements sur la valeur juridique des procès-verbaux. Ce sont des instruments de constatation des faits délictueux destinés à constituer des éléments de preuve devant les instances judiciaires. Un procès-verbal n'a de force probante que s'il est régulier dans sa forme et que son auteur a agi dans l'exercice de ses fonctions. Ce dernier peut s'exposer à des sanctions pénales s'il se rend coupable d'abus. En conséquence, tout procès-verbal renfermant des aveux obtenus sous la contrainte est purement et simplement rejeté et son auteur poursuivi en justice.

758. Le Rapporteur spécial a transmis des renseignements sur les cas individuels suivants.

759. **Hamid Muntassir**, un étudiant de 16 ans, aurait été torturé alors qu'interrogé sur les circonstances de la mort de l'un de ses amis. Il aurait été arrêté par la police le 7 juin 1998 à Azemmour, près d'Al-Jadida et détenu au secret pendant trois jours. Il aurait eu les yeux bandés et aurait été frappé sur la plante des pieds (falaqa). Il aurait aussi été menacé d'être soumis à des chocs électriques. Ces allégations seraient consistantes avec un certificat médical daté du 12 juin 1998. Une plainte aurait été déposée par sa famille le 22 juin 1998.

760. Le gouvernement a indiqué que l'affaire est pendante en justice. Des renseignements supplémentaires seront soumis au Rapporteur spécial ultérieurement.

761. **Mohamad Doussal** aurait été arrêté sur le marché de Safi par un fonctionnaire de police auxiliaire le 28 octobre 1998 et aurait été conduit au poste de police du 7ème arrondissement (muqata'a) de Safi. Il aurait été soumis à la falaqa et battu sur les parties génitales par quatre fonctionnaires auxiliaires sur l'ordre du chef de police (caid). Il aurait été libéré le jour même et aurait été hospitalisé. Il aurait reçu un certificat médical d'incapacité de travail de 30 jours. Le 12 novembre, il aurait déposé une plainte et une enquête aurait été ordonnée par la cour d'appel de Safi en mai 1999.

762. Le gouvernement a indiqué que des poursuites judiciaires ont été lancées à l'encontre du caid. L'audience a été fixée par la chambre criminelle de la cour d'appel de Safi pour le 29 avril 2001.

763. **Hammed Ali Hamad** aurait été arrêté à Laayoune, Sahara occidental, en mai 1997 et aurait été détenu au secret pendant 11 jours durant lesquels il aurait été battu et torturé. Il aurait été attaché par les poignets à une voiture et traîné dans la cour du centre de police où il était détenu. Il aurait été relâché sans avoir été inculpé et aurait perdu l'usage de ses mains.

764. Le gouvernement a indiqué qu'Hammed Ali Hamad n'avait jamais fait l'objet d'une arrestation.

765. **Mohamed** et **Mustafa Essrout**, deux frères, auraient été torturés par le caid de Casablanca le 3 août 1998 alors qu'ils se trouvaient dans son bureau pour récupérer des biens que Mohamed Essrout s'était vu confisquer alors qu'il les vendait dans la rue. Ils auraient été tous les deux soumis à la falaqa par des fonctionnaires de police auxiliaires sur ordre du caid. Ils auraient reçu des soins médicaux, ainsi qu'un certificat médical d'incapacité de travail de 15 jours, à leur libération. Ils auraient déposé plainte le 13 août. Aucune enquête n'aurait été ouverte suite à leur plainte.

766. Le gouvernement a informé le Rapporteur spécial que des investigations étaient en cours. Des renseignements seront communiqués ultérieurement.

767. **Hichem Chekroun**, un mineur de 17 ans condamné à trois ans de prison fermes et emprisonné à la prison Oukacha de Casablanca, aurait été victime en janvier 1999 d'un viol par d'autres prisonniers, qui auraient bénéficié de la complicité des gardes. Il aurait été transféré avec 80 autres détenus mineurs dans l'aile pour adultes de la prison. Ce transfert aurait eu lieu pour permettre à des caméras de télévision de montrer que l'aile accueillant les mineurs n'était pas surpeuplée. Hichem Chekroun aurait été transporté à l'hôpital dans un état critique.

768. Le gouvernement a précisé que l'administration pénitentiaire a dépêché sur les lieux une commission d'enquête et que l'affaire a été déférée devant le parquet, qui a décidé de poursuivre quatre agents du centre de détention devant la chambre criminelle de la cour d'appel de Casablanca. Deux de ces agents sont poursuivis, bien que remis en liberté provisoire.

769. **Jaouad Farihane**, un jeune homme de 24 ans originaire de Meknès, aurait été arrêté par la police à Tiflet le 2 octobre 1998. Il aurait refusé de montrer sa carte d'identité et aurait été alors frappé. Il aurait été conduit par les policiers à l'hôpital de Tiflet, où il aurait été déclaré mort à son arrivée. Son corps aurait été transporté à la morgue de Khemisset. Deux jours plus tard, sa famille aurait été informée, mais aurait été empêchée d'examiner le corps.

770. Le gouvernement a indiqué que Jaouad Farihane était décédé des suites d'une maladie gravissime dont il souffrait de longue date. L'expertise médicale a conclu à une mort naturelle.

771. **Hicham Janah** aurait été arrêté le 20 novembre 1998 et emmené au poste de police central de Meknès. Sa mère aurait informé, certificats médicaux à l'appui, les policiers de garde que son fils était épileptique et nécessitait des soins constants. Les policiers auraient refusé de prendre les médicaments qu'elle avait amenés avec elle. Le 22 novembre, Hicham Janah aurait été transféré à la prison de Meknès. Les autorités pénitentiaires auraient à leur tour refusé de prendre les médicaments apportés par sa famille. Le lendemain, il aurait été vu par sa famille à l'hôpital, dans le coma et portant des marques de coups à la tête. Les autorités auraient indiqué que ces marques étaient dues à une chute lors d'une crise d'épilepsie. Il serait décédé le 24 novembre 1998.

772. Le gouvernement a indiqué que des renseignements seraient communiqués ultérieurement au Rapporteur spécial.

773. By letter dated 8 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1996 regarding which no reply had been received.

Urgent appeals

774. Le 21 juillet 2000, le Rapporteur spécial a envoyé un appel urgent en faveur de **Ahmed Musbah Ali Hamza**, sa femme, **Fatima Mohamed El-Shaibani**, et leurs deux filles âgées de 4 et 5 ans, qui risqueraient d'être retournés contre leur gré prochainement en Libye, où il est craint qu'ils ne soient soumis à des actes de torture. Toute la famille aurait demandé l'asile

à l'aéroport de Rome le 15 juillet 2000 après avoir détruit leurs passeports libyens. Le 17 juillet, les autorités italiennes les auraient envoyés au Maroc. Ils seraient actuellement à Casablanca.

775. Le 23 octobre 2000, le Rapporteur spécial a envoyé un appel urgent en faveur de **Lazaar Mohamed ould Mohamed-Lamin** et **Daoud Mohamed-Salem Falli**, qui auraient été arrêtés le 5 octobre 2000 par les forces armées marocaines près de Guelta Zemour au Sahara occidental et conduits au poste militaire des forces armées royales basées à Guelta, où ils auraient été maltraités. Au matin du 6 octobre, ils auraient été conduits auprès des forces de la police royale qui, en compagnie d'officiers de la police judiciaire de la division d'El Aaiún, auraient continué à les interroger et à les torturer. Ils auraient été inculpés le 9 octobre de "formation d'un gang" et de "tentative d'immigration iliégale". Ils auraient été finalement transférés à la prison connue sous le nom de "prison noire".

Myanmar

776. By letter dated 5 October 2000, the Special Rapporteur advised the Government that he had received information according to which the conditions of detention in several prisons and Military Intelligence detention centres amount to cruel, inhuman or degrading treatment. Convicted prisoners are reportedly tortured for breaking prison regulations. The reported lack of medical assistance, combined with an inadequate diet, is feared to have serious consequences for prisoners with a fragile health and to aggravate the situation of those that have been incarcerated while already suffering from bad health. Some prisoners have reportedly been placed for long periods of time in tiny cells meant for dogs. The conditions of detention in the prisons of Insein, Myitkyina, Kachin State, Thayet, Myingyan and Tharrawaddy are reported to be especially harsh. Cases of torture and other forms of ill-treatment of prisoners in the Military Intelligence detention centres are reported. In particular, torture of political detainees is believed to be routine, especially during the initial process of interrogation. In particular, the Special Rapporteur transmitted information concerning the following individual cases.

777. **Pa Nya Paw**, a Karenni Buddhist, was reportedly tortured to death in early April 1997. He was reportedly detained and interrogated by Division 22 of the armed forces (tatmadaw) about the whereabouts of the Karen National Liberation Army (KNLA). During his interrogation the army officers allegedly punched and kicked him until his limbs were broken, smothered him with plastic and poured boiling water on him. He reportedly died from his injuries.

778. **Daw May Win Mint** an elected Member of Parliament from the National League for Democracy (NLD), was reportedly arrested on 28 October 1997 after an attempt by the NLD to hold a meeting with its leader, Daw Aung San Suu Kyi, in Mayangone. She was allegedly deprived of water and mishandled during interrogation.

779. **James Mawdsley**, a citizen of the United Kingdom and Australia, was reportedly arrested on 31 August 1999 in Tachilek and was held in solitary confinement in Kengtung prison. He was allegedly tortured for 14 hours during his previous incarceration, in May 1998, by being forced to stand blindfolded for hours at a time without water, or by being laid on the floor, a bamboo stick across his legs, with two men sitting on either end of the stick and rolling it back and forwards along his shins. The reason for his detention is believed to be his activism

against the policies of the Government. He is reported to have been openly threatened with violence on 23 February 2000 by a prison official after he tried to complain to him about the difficult conditions of solitary confinement.

780. **U Win Tin**, a journalist arrested in July 1989, was allegedly submitted to harsh conditions of imprisonment during his time in Insein prison. He was repeatedly severely beaten by prison guards and held in a former guard-dog kennel and kept in solitary confinement for almost a year. He was then reportedly transferred in 1997 from Myingyan jail to Rangoon General Hospital. He is still believed to be held in prison.

781. **Daw San San Nwe**, a journalist and writer, was reportedly arrested in August 1994, allegedly for passing information to foreign journalists, and sentenced to 10 years' imprisonment. In 1998 she was said to be held in a very bad health condition in Insein prison. She was said to be suffering from high blood pressure, heart problems and paralysis on the right side of her body.

782. **U Myo Htun** was allegedly arrested in connection with his contribution to the writing of a history of the student movement in Myanmar and sentenced to 10 years' imprisonment in March 1998. He was reportedly severely beaten and is being held in a poor health condition in Insein prison.

783. **Ma Khin Khin Leh** was reportedly arrested along with 18 others in July 1999 in Bago, in connection with her husband's alleged activities as a pro-democracy activist. She was reportedly taken to MI 3 headquarters in Bago, before being transferred to Wakteka near Phaungyi, and then to Insein prison. After being sentenced to life imprisonment on 3 December 1999, she was reportedly transferred in January 2000 from Insein prison to an unknown location. She was reportedly tortured during interrogation, and is now suffering from lung disease. She is believed to have been denied appropriate medical treatment.

784. **Moe Kalayar Oo** was reportedly arrested on 20 February 1995, along with more than 50 other people, at the funeral in Yangon of U Nu, a well-known politician. She was sentenced to seven years' imprisonment. She is said to have been initially detained in Insein prison, where she was reportedly held in solitary confinement because she complained about being denied medication. She is believed to be currently detained in Thayawaddy prison, Bago division. She is reported to be in a bad health condition and to be suffering from suspected osteoporosis and tuberculosis.

785. **U Thein Tin** reportedly died as a result of torture in February 1998 during his detention in Insein prison.

786. **Aung Kyaw Moe** was reportedly beaten to death during a hunger strike in Tharawaddy prison in May 1998.

787. **Khin Zaw Win**, who was reportedly arrested in 1994, is said to have been badly tortured in early 1996. He is believed to be held in poor health conditions.

788. The Special Rapporteur continued to transmit information according to which several cases of human rights violations, including torture and other forms of ill-treatment, took place in the context of widespread counter-insurgency activities against armed ethnic minority opposition groups still fighting the Government. Civilians are reportedly at risk of torture by the military, who appear to often assume that they support or are even members of such groups. During counter-insurgency activities against Shan armed forces, armed forces personnel have reportedly subjected Shan villagers to torture. The alleged long-standing practice by the armed forces of forced labour and portering in many parts of the country is said to be also prevalent in Shan State. Since several army battalions were brought into Chin State after 1988, forced labour, forced portering, extortion and torture of suspects by the army have been widespread. Moreover, several Chin Christian pastors and laymen belonging to the Thantlang Baptist Association of the Zomi Baptist Convention were allegedly subjected to arbitrary arrest and torture. In particular, the Special Rapporteur transmitted information concerning the following individual cases.

789. **Loon Khem**, **Waling**, **Tawna** and **Ai Mih**, all Shan villagers from Wan Yot, were reportedly stabbed and beaten to death in February 1997 after having been seized by troops of the tatmadaw. They had reportedly returned to their village, which had been burnt down by the military forces, in order to collect some rice stores, although they had been warned by the military that they would be shot on sight if they did so.

790. The Special Rapporteur transmitted information about the widespread practice of forcible relocations in the Kayin, Kayah and Shan States. They appear to be carried out solely on account of the ethnic origin or perceived political beliefs of those who are relocated. The conditions in the relocation sites are believed to be life-threatening. They reportedly include overcrowding, lack of sanitation and medical care, lack of safe drinking water, lack of sufficient food supplies. The Special Rapporteur transmitted information concerning recent widespread incidents of torture by the military in Kayah State (since 1993) and in Shan State (since 1996), which are believed to have occurred in the context of the forcible internal displacement of civilians. In particular, the Special Rapporteur has received information concerning the following individual cases.

791. **King Htun** and his son **Ai Lick**, two villagers from Kunhing township, were harvesting rice in their fields after the relocation deadline in mid-1997 when they were reportedly stabbed to death by the tatmadaw. **Their wives** were also reportedly seized, tied to a tree, stripped naked and raped.

792. **Nang Mai**, from Nai Mai village, Kunhing township, was reportedly seized in April 1997 by the military while returning to her village to get rice after her forcible relocation in Kunhing town. She is said to have been raped over a period of five days in Wan Lao, a deserted village. She was then allegedly covered with pieces of wood and burned to death.

793. **U Yana**, a Buddhist monk from Kunhing township, was reportedly killed during the forcible relocation process that took place in March 1997. Government troops came to the village and detained 60 men, whom they released after they found U Yana. The soldiers reportedly tied him to a post for a whole night and a whole day, in the sun. He was then

reportedly forced at gunpoint to go and search for Shan soldiers and taken away together with 20 porters. After a while the soldiers allegedly told the porters to kill the monk. They are said to have refused, so the soldiers reportedly shot him and threw his body down a valley.

794. **Aye Pong**, an 11-year-old girl from a village located in Nam Zarng township, was allegedly raped and killed in September 1997. She is said to have returned with her 25-year-old brother and an unidentified woman to their village after having been forcibly relocated, in order to retrieve a bullock and a cart. Government troops reportedly shot her brother dead and raped her and the other woman, before killing her and the bullock. The other woman is said to have been released after serving some time as a porter.

795. The Special Rapporteur has also continued to receive information about cases of torture in the context of forced labour duties performed by prisoners, as well as by ordinary civilians. Extrajudicial punishment of labourers can amount to physical abuse, beatings, rape and torture, sometimes even murder. The health, safety and other basic needs of forced labourers are reportedly disregarded by the authorities, often leading to death by accident or sickness. According to the information received, several factors, including the lack of proper food, clothing and resting time, are believed to lead the forced labourers to rapid exhaustion, which in turn results in their being frequently beaten or otherwise physically abused by soldiers. It is also believed that porters, including women, are often sent ahead in particularly dangerous situations as in suspected minefields, resulting in serious casualties. The practice of forced portering is said to occur mostly in the areas where armed ethnic minority groups are active. The Rapporteur transmitted information concerning the following individual cases.

796. **Mi Reh**, an animist farmer from De Ri Dah village, was reportedly beaten to death by troops of the tatmadaw in September 1998. He had returned to his village in order to harvest his rice crop when he was caught by the tatmadaw and forced to carry ammunition. He was allegedly beaten with a rifle butt and kicked because he walked too slowly. He is said to have made his way back to his family hiding in the forest, but he reportedly died two weeks later for lack of medical assistance.

797. **Pa Kler,** a Karenni Buddhist rice farmer from Kawkareik township, Kayin State, was reportedly killed during forced portering duty in mid-1996. He is said to have become very weak and sick, to the point that he was no longer able to carry his load. The soldiers reportedly beat him to death with their rifle butts and left his body unburied by the main road, one hour by car from Kawkareik.

798. **Hla Du**, a Karenni from Kawkareik township, Kayin State, was allegedly one of 10 men forced to carry ammunition and food supplies for the government forces in July 1996. He was allegedly beaten, had his eyes gouged out, his limbs broken, and was finally stabbed to death in his ribs by the soldiers for unspecified reasons.

799. **Pa Di**, a farmer from Bilin township, Thaton district, Mon State, was reportedly called as a porter in September 1998. After having refused, he is said to have been beaten with sticks to the point of unconsciousness by soldiers, who then reportedly stabbed him to death.

800. The Special Rapporteur has also received information according to which women, in particular those members of ethnic minority groups, have been subjected to torture and rape at the hands of the military authorities. Those incidents have reportedly occurred in several types of context, including forcible relocation, forced labour and counter-insurgency activities against armed opposition groups. In particular, the Special Rapporteur transmitted information about the following individual cases.

801. **Naw Po Thu**, a 12-year-old girl from Ha Ta Re village tract, Hpa'an district, was allegedly raped and killed by government armed forces personnel in October 1998. She was taken with two other people to act as guides for troops based in Myawaddy. She was allegedly raped by a major and managed to escape, but was captured and raped again and then shot dead. When the body was recovered, witnesses reportedly found that a gunshot wound from a handgun had entered the body at the vagina and exited at the chin. The major is said to have given the girl's family minor compensation for her death.

802. **Nang Pang**, a woman from Wan To Mon village, Murnpan township, reportedly died in the aftermath of having been raped and kicked by government soldiers in October 1997. After she threatened to tell their captain, a lieutenant allegedly kicked her in the chest and threatened to kill her. She is said to have been taken to Thailand in December 1997 in order to get medical treatment, but she reportedly died in January 1998 because her family could not afford to pay for surgery.

803. By letter dated 23 October 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1996, 1997 and 1998 regarding which no reply had been received.

Urgent appeals

804. On 9 June 2000, the Special Rapporteur sent an urgent appeal on behalf of **Daw Khin Nu** and **Daw Chaw**, both aged in their late 60s or early 70s. They were reportedly arrested on 27 May 2000 in Rangoon and were said to be currently detained in Insein prison without access to their families or proper medical care. They were arrested allegedly because they had let their property to the National League for Democracy (NLD), the main opposition party in Myanmar. On 27 May, the NLD had reportedly celebrated the tenth anniversary of its 1990 election victory and had held a ceremony at their headquarters there. Both women are reportedly being denied essential medication, which they must take on a regular basis.

805. By the same urgent appeal, the Special Rapporteur advised the Government that he had received information according to which in the run-up to the above-mentioned anniversary, a considerable number, possibly hundreds, of NLD members and supporters had been arrested. More than 150 persons were said to have been arrested on politically motivated charges in the first five months of 2000 by the State Peace and Development Council (SPDC). Those arrested allegedly include NLD youth organizers, members of local organizing committees and at least 12 members of the parliament-elect. They were said to have been detained incommunicado.

Observations

806. The consistency of the reports reaching the Special Rapporteur over the years with the general allegations referred to in the paragraphs above leads him to conclude that there is sufficient substance to them to give cause for the gravest concern. The apparent pervasive impunity of the security forces must be seen as an essential factor.

Namibia

807. By letter dated 5 October 2000, the Special Rapporteur advised the Government that he had received information on the following individual cases.

808. **Erkki Fiderato**, known as "Sikeletu", was reportedly arrested on 7 January 2000 by members of the Namibian Special Field Force (SFF). They allegedly kicked him and beat him with rifle butts before taking him to their base close to Utokota village, where he was allegedly beaten with an iron bar. He was then reportedly taken away in a police vehicle. His whereabouts remain unknown. It is believed that he may have been under detention at a military base near the Rundu airport or that he may have been handed over to the Angolan army at Calai.

809. **Kamungwe Ngondo**, a 25-year-old farmer, was reportedly arrested on 3 February 2000 after failing to show his identity documents. Members of the SFF are said to have taken him to their base at the airport and to have beaten him with a sjambok (whip) on his back and chest which is said to have caused scarring. He was reportedly released two weeks later.

Nepal

810. By letter dated 10 October 2000, the Special Rapporteur advised the Government that he had received information on the following individual cases.

811. **Chija Maya Tamang** was reportedly arrested at her home in Bhotetar, Budhabare VDC-1 in Jhapa district on 15 November 2000 and taken to the district police office in Ilam, apparently in connection with a murder. On 16 November, two policemen and a policewoman allegedly tied her legs together, held her upside down and beat her on the soles of her feet, legs and back. She also reportedly had sticks rolled over her back and legs, and pins were said to have been pricked into the soles of her feet. On 18 November, she was reportedly threatened with death and given electric shocks to her chest. Her two-year-old daughter, who had been arrested with her, was also said to have been slapped by police.

812. **Resham Bahadur Lama** was reportedly arrested by the police on 4 August 1999 on suspicion of involvement in an altercation. He was said to have been taken to the Singha Durbar ward police office and reportedly severely beaten with a stick and kicked with boots whilst being asked about the whereabouts of two other suspects. The next morning, he was allegedly taken to the district police office at Hanuman Dhoka and again beaten severely. As a result, he is said to have lost a tooth and to have suffered swellings to his face.

813. **Bhaagi Ram Pun**, who is said to be suffering from mental illness, was reportedly sentenced to life imprisonment on 22 August 1994 by Dangdeukhuri district court. After reportedly having spent periods of time in a number of different prisons, he was reportedly transferred to Central prison on 7 August 1998. On 22 April 2000, Bhaagi Ram Pun was reportedly attacked by three prisoners, from whom he was said to have requested some money which he had allegedly lent them previously. The prison naikes (prisoners responsible for some matters of internal prison administration) reportedly became involved and decided to punish him. They allegedly tied him up and beat him for over an hour all over his body and on the soles of the feet at least 70 times. On 1 May 2000, the argument over repayment of the money reportedly erupted again and Bhaagi Ram Pun is said to have been beaten for a second time by one of the naike who hit him on his buttocks and in the groin. The prison administration reportedly took no action on either occasion. He was reportedly not given any medical treatment for the injuries he sustained and was said not to have been able to take his regular medical treatment for epilepsy for over a week. On 6 May, he was reportedly transferred to Dhulikhel prison.

814. **Pratap Singh Lo** was allegedly subjected to torture at the Chapagaon police station in Lalitpur district, following his arrest on 14 May 2000. He was allegedly beaten severely by police personnel with a bamboo stick all over his body, including on his calves, feet and back, and as a result is said to have become unconscious. While still unconscious he was said to have been taken in a police van to the district police office in Jawalakhel, Lalitpur district where he was allegedly kept for three days before being transferred to the police station in Hetauda, Makawanpur district. From the time of his arrest, he is also said to have been denied food for five days. After arrival at the Hetauda police station in Makawanpur district, he reportedly fell unconscious again and remained in this condition for three days until 22 May, when he was taken to the Hetauda hospital and on to the Bharatpur hospital for medical treatment. He was reportedly returned to Hetauda police station on 25 May, allegedly despite advice from the hospital doctors that he should remain in the hospital for one month.

815. **Laxman Poudel**, a Bhutanese camp assistant administrator at Beldangi-II Refugee Camp in Jhapa district, eastern Nepal and employee of Save the Children Fund (UK), was reportedly arrested without warrant on 27 May 2000 in connection with the theft of a generator from the refugee camp store and taken to the Beldangi II Extension police post for questioning. On 28 May, during questioning about the theft, the assistant sub-inspector and two policemen are said to have beaten him severely on the chest, thighs and shoulders. He was reportedly told to bend over with his hands on the floor while one policeman stood at his head asking him questions and the other two policemen on either side of him allegedly beat him with a bamboo stick on his buttocks, shoulders, thighs and back for an hour. The next day, he was reportedly taken to hospital, as he was reportedly unable to walk and suffered severe pain in his chest, knees and buttocks as a result of the alleged torture.

816. **Lal Bahadur Tamang**, the President of the All Nepal Landless People's Union, was reportedly arrested in Pokhara Municipality by a group of policemen on suspicion of being a member or supporter of the Communist Party of Nepal (CPN-Maoist). On the way to the police station, he was allegedly beaten inside the jeep. He was reportedly taken to the City Ward police post at Bagar, Ward No. 1, Pokhara, where he is said to have been verbally abused and severely beaten on his hands, back and buttocks with sticks and a gun butt by policemen whose faces were partly covered. He was also allegedly given electric shocks to his fingers, forced to urinate

on a burning electric heater, subjected to chepuwa, where his thighs were clamped and rolled on with a heavy weight, suspended by his hair and subjected to "wet submarino" (submerged in a container full of water). He was also said to have been deprived of food and water and forced to sign papers which he was not permitted to read beforehand. After his release, he was given medical treatment.

817. **Ravi Upreti** was reportedly arrested on 16 June 2000 by five police personnel, a ranger and two forest guards, on suspicion of theft. He was reportedly taken to the forest office at Chandragari. He was reportedly kicked several times when he asked for water. He was then allegedly denied medical treatment. After his release on 17 June, he was reportedly taken back home. The following day, he is said to have experienced breathing problems. He died on 18 June. It is alleged that he had reportedly been subjected to severe beating at the Chandragari forest office. A post-mortem report is said to have revealed that Ravi Upreti had suffered a fractured rib, bruising to his back, buttocks and elbows, resulting in internal injuries, and had died of shock due to trauma. The ranger and two forest guards, who deny torturing Ravi Upretti, were reportedly taken into police custody in Jhapa.

818. **Yuba Raaj Lama** was reportedly arrested on 14 June 2000 near Bhandara in the Chitwan district on suspicion of theft, along with two friends. A police constable and another policeman are said to have beaten Yuba Raaj Lama randomly all over his body with sticks and a polythene pipe while asking him where the money was which he was alleged to have stolen. He was also beaten on his head with a bamboo stick, as a result of which he fainted. He was reportedly taken to Bharatpur hospital. The two police officers who are said to be responsible were reportedly suspended from duty and put into custody at the Hetauda district police office.

819. **Bal Ram Rai** was reportedly arrested on 18 July 2000 in connection with a local dispute among traders, and was taken to the Duhabi area police station. Upon arrival, a police constable and two policemen allegedly pulled him forward by the hair and beat him on his back with a belt and a bamboo stick until he fell unconscious.

820. **Rajeev Lama**, a taxi driver, was reportedly arrested at his house in Sita Paila on 9 March 2000 on suspicion of his involvement in a strike in Thamel, Kathmandu, and taken to Hanuman Dhoka police station. Over a period of three days, he was allegedly beaten randomly by policemen all over his body, forced to sit on a heater, had his ears and hair pulled and pressure applied to his eyes, was suspended upside down and was subjected to belana by having an iron rod rolled over his thighs. He was eventually taken in an unconscious state to Bir Hospital, where he was reportedly treated for wounds all over his body, a fractured ankle and a damaged eye.

821. **Hari Ghorsani**, a refugee living in Beldangi II (extension) refugee camp in Jhapa district, was arrested without warrant on 1 August 2000 by five policemen dressed in civilian clothing. He was allegedly taken to the camp police post and from there on to the Area Police Office in Damak. When he denied any knowledge of a pistol the police were looking for, he was allegedly slapped in the face and beaten with a bamboo stick on his back, buttocks and thighs until he fell down. He was allegedly subjected to belana (having a weighted bamboo stick rolled

over his thighs) and falanga (beating on the soles of the feet). He reportedly later complained to the police inspector about the torture to which he had reportedly been subjected, and was provided with some painkillers and told to soak his feet in warm saline water.

822. By letter dated 23 October 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1997, 1998 and 1999 regarding which no reply had been received.

Observations

823. The consistency of the reports reaching the Special Rapporteur over the years is highly suggestive of a generalized problem of torture and ill-treatment at the hands of law enforcement officials, which the Government is strongly urged to address as a matter of priority.

Niger

824. By letter dated 8 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1997 regarding which no reply had been received.

Nigeria

825. By letter dated 5 October 2000, the Special Rapporteur advised the Government that he had received information on the following individual cases.

826. **Bello Garki Zangebi** is reported to have had his right hand amputated at the wrist at the Talata-Mafara State hospital on 22 March 2000. It is unclear whether the alleged amputation took place inside the hospital or in the hospital grounds in front of a crowd. It is believed he had been convicted by a shariah court a month earlier. This was said to be the first punishment carried out under the shariah penal code, which was reportedly adopted by the Zamfa State in January 2000.

827. **Niran Malaoulu**, editor of the Diet Newspaper, was reportedly arrested on 28 December 1997. It is alleged that following his conviction for "information gathering" he is serving a 15-year sentence at Katsina prison, in northern Nigeria. In October 1998 he was suffering from typhoid and an acute eye infection, for which it is alleged he was refused medical treatment by the authorities.

828. By letter dated 23 October 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998 regarding which no reply had been received.

Urgent appeals

829. On 18 April 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Chairman-Rapporteur of the Working Group on Arbitrary Detention, on behalf of **Pastor Monday Gbonade, Saturday Namon, Sunday Namon, Stephen Oomil, Friday Tenalo, Pastor Deebari Zortee** and **Lucky Zorgbaa**, all residents of K-Dere village in Ogoniland, south-east Nigeria. They

were all reportedly arrested on 11 April 2000 during a police raid on their village. Some were allegedly beaten at the time of arrest. As a result, some of them are in poor health, but they have been denied medical care in detention at police headquarters in Port Harcourt, the capital of River State. The River State authorities are said to claim that the police went to the village of K-Dere in the early hours of 11 April to quell inter-communal unrest between the inhabitants and those of a neighbouring village, and were ambushed by youths who seized and seriously injured eight officers and burned police vehicles. The raid on K-Dere and arrests by armed officers of the Mobile Police were reportedly not provoked by any community unrest and police reportedly shot dead **Barinaadua Jungle Gbaraka** when he tried to escape arrest. After youths had allegedly injured police officers in retaliation, dozens of armed officers are believed to have returned to the village, killed at least five people and burned down homes. The police were accompanied by a senior local government official and associates who identified as targets those who had opposed a road-building project by a company contracted to the Shell oil company.

830. On 29 September 2000, the Special Rapporteur sent an urgent appeal on behalf of **Bariya Ibrahim Magazu**, a 17-year-old girl, who had reportedly been arrested by police in July 2000 and received a sentence of 180 strokes of the cane by a shariah (Islamic law) court in Tsafe, Zamfara State, in early September 2000. She is reported to have been sentenced to 100 lashes for allegedly having had sexual relations outside marriage and a further 80 lashes for allegedly falsely accusing three men of having sexual relations with her. It is believed that the sentence is not to be carried out until at least 40 days after the delivery of her baby, which is allegedly expected in November 2000.

831. By the same urgent appeal, the Special Rapporteur also intervened on behalf of **Musa Gummi**, who had reportedly been convicted of stealing three bicycles and sentenced to have his hand amputated, according to a statement made by a Zamfara State official on 23 September 2000.

Pakistan

832. By letter dated 8 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1996, 1997, 1998 and 1999 regarding which no reply had been received.

Urgent appeals

833. On 2 March 2000, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Dr. Farooq Sattar**, former mayor of Karachi and parliamentary leader of the Muttahida Quami Movement (MQM) in Sindh, who had reportedly been detained on 26 November 1999 in the Military Cantonment in Karachi in relation to alleged accusations of financial misconduct. On 25 January 2000, a division of the Sindh High Court reportedly allowed the National Accountability Bureau until 3 February 2000 to ascertain the charges against him. On 19 February a habeas corpus petition was filed on his behalf. On 21 February 2000, Dr. Farooq Sattar was reportedly transferred via Islamabad to Attock Fort, where he is believed to be held in solitary and incommunicado detention in a cell measuring 7 square feet.

Follow-up to previously transmitted communications

834. By letter dated 6 June 2000, the Government informed the Special Rapporteur of its decision to ban the use of bar fetters throughout Pakistan, except in rare cases of high security prisoners and only in full compliance with the interim orders of the Supreme Court of Pakistan. In pursuance of the decision, the fetters of a large number of prisoners have been removed.

Paraguay

835. Con fecha 10 de octubre de 2000, el Relator Especial notificó al Gobierno que había recibido información según la cual más de 200 menores estarían detenidos en el Establecimiento Correccional de Menores Panchito López donde las condiciones de vida en la prisión serían muy duras. Ocho detenidos habrían muerto en un incendio el 11 de febrero de 2000 y otros 20 habrían sufrido quemaduras. Después de un segundo incendio que habría ocurrido el 18 de febrero de 2000, debido a las condiciones extremas en que vivirían los reclusos, 40 habrían sido trasladados al nuevo Centro de Educación Integral en Itauguá, donde las condiciones serían mejores que en Panchito López. Otros 22 habrían sido transferidos al Establecimiento Penal para Adultos en Emboscada, donde algunos jóvenes habrían sido objeto de malos tratos. El Relator Especial ha recibido información sobre las siguientes personas: **Carvallo Figueredo** (de 15 años) y **Rubén Darío Alcaraz** (de 17 años) habrían sido maltratados el 25 de febrero de 2000 en el Establecimiento Correccional de Menores Panchito López. A ambos les habría practicado un examen médico el personal de la Defensa de los Niños - Movimiento Internacional, Sección Paraguaya. **Víctor Aponte** (de 17 años) habría recibido golpes en la espalda y mostrado síntomas de irritación cerebral y habría sido incomunicado en la sección de adultos. Desde su traslado no habría recibido la medicación adecuada. **Antero Daniel Roa** (de 17 años) tendría golpes en la espalda, y también habría sido colgado cabeza abajo.

836. By letter dated 8 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1996 regarding which no reply had been received.

Observations

837. The Special Rapporteur considers it appropriate to draw the attention of the Commission to the concern expressed by the Committee against Torture on its May 2000 review of the third periodic report of Paraguay under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in respect of information "from reliable sources that the practice of torture and cruel, inhuman or degrading treatment or punishment continues in police stations and in Armed Forces prisons and premises, where soldiers performing compulsory service are subjected to frequent physical ill-treatment" (A/55/44, para. 150 (c)).

Peru

838. By letter dated 21 December 1999 sent in conjunction with the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur advised the Government that he had received information on the following case.

839. On 5 August 1999, some 30 members of the Special Forces of the Peruvian National Police are said to have entered the women's block in Yanamayo prison, where **Maria Concepcion Pincheira Saez** was being held with other prisoners held for alleged political reasons. She was interrogated about an interview she had given to the media in June 1999. The officers allegedly beat her, subjected her to vicious kicking on the ground, seriously damaging her eyesight, squirted tear gas in her mouth and inserted a sharp object into her vagina, causing serious haemorrhaging. Other women were reportedly beaten. All were denied medical treatment.

840. By letter dated 8 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998 and 1999 regarding which no reply had been received.

Urgent appeals

841. El 29 de mayo de 2000, el Relator Especial envió un llamamiento urgente conjuntamente con el Relator Especial sobre la libertad de opinión y expresión sobre **Fabián Salazar Olivares**, un periodista que habría sido golpeado después de haber revelado información sobre corrupción durante las elecciones presidenciales. El 24 de mayo le habrían entregado documentos que mostrarían al Presidente del Jurado Nacional de Elecciones entrando al Servicio de Inteligencia Nacional (SIN). El 24 de mayo, cuatro hombres, que habrían expresado ser de la Superintendencia Nacional de Administración Tributaria y aparentaban ser soldados, habrían entrado a su oficina en Lima, lo habrían atado a una silla, amordazado y vendado los ojos. Habría sido golpeado también. Desde el Hospital San Felipe de Lima, donde se encuentra para su tratamiento, habría expresado haber estado bajo constante vigilancia por parte de agentes del SIN.

Follow-up to previously transmitted communications

842. Por carta de 28 de febrero de 2000, el Gobierno respondió al caso de Tony Gustavo Aduvire Condori (E/CN.4/1999/61, párr. 570), que fue intervenido por personal militar y conducido al Cuartel del Ejército Tarapacá, como parte de un operativo de reclutamiento para el servicio militar obligatorio. Durante el trayecto, el referido se arrojó del vehículo en movimiento y cayó a la pista sufriendo una fractura craneana y un traumatismo craneoencefálico grave que produjo una hemorragia cerebral masiva y por último la muerte, hecho corroborado por un Protocolo de Necropsia. Tras su caída, el antes mencionado fue llevado al tópico del cuartel donde se le examinó y se determinó que no tenía lesiones de consideración. En consecuencia se dispuso que fuera nuevamente subido al camión para su retorno al lugar de su detención. Sin embargo, fue dejado en la vía pública a su demanda. El Gobierno señala que los responsables del delito han sido sancionados, estableciendo una reparación para los familiares de la víctima, encontrándose en trámite un recurso de nulidad interpuesto por Manuel Aduvire Cusi.

Observations

843. The Special Rapporteur shares the concerns and endorses the recommendations of the Human Rights Committee on its October 2000 review of the fourth periodic report of Peru under the International Covenant on Civil and Political Rights. In particular, he draws the attention of the Commission to the following concerns and recommendations:

> Repeal of the 1995 amnesty laws and non-adoption of a new amnesty law (CCPR/CO/70/PER of 15 November 2000, para. 9);
>
> Concern about 15-day detention of suspected terrorists, drug traffickers and spies and need for compliance with the obligation to provide by law for appearance without delay before a judicial authority (para. 13);
>
> The need to take measures to improve bad prison conditions, in particular, by reducing the population of Lurigancho prison and closing Yanamayo and Challapaça prisons (para. 14);
>
> The need to amend the still persisting practice of year-long isolation of certain prisoners (para. 15).

Philippines

844. By letter dated 5 October 2000, the Special Rapporteur advised the Government that he had received information on the following individual cases.

845. **Amador Matos** was reportedly arrested at a checkpoint near Sityo Tubigon by a group of soldiers on 28 March 2000 on suspicion of being a member of the outlawed New Peoples Army (NPA). He is alleged to have been tied with a nylon rope and to have had a plastic bag put over his head in a method of torture known as the "dry submarine". He was also beaten with the butt of a rifle, punched and subjected to mock execution. As a result of this treatment, Amador Matos admitted that he was visited by the NPA and given reading materials by them. Following this admission the soldiers are reported to have taken him to their camp, where he was tied to a tree. They allegedly left him there all night in the rain and he was forced to urinate on himself. On 29 March 2000, the soldiers are understood to have turned him over to the Philippine national police in Danao city.

846. **Cesario Lebrilla**, a community organizer of Kompas, Group of Urban Poor Organizations for Sustainable Development, is understood to have been abducted and tortured by unidentified military men on 8 January 2000. He was reportedly hit on the back of the head and forced inside a van, where armed military men, with armalite rifles, handcuffed and blindfolded him, and then beat him up. It is believed that he was detained inside Fort Boniface. During this period, his captors, who had their heads covered, allegedly beat him, poured gasoline on his back, plucked the hair from his moustache and banged his ears. He was consistently threatened with execution.

847. By letter dated 23 October 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998 regarding which no reply had been received.

Portugal

848. By letter dated 5 October 2000, the Special Rapporteur advised the Government that he had received information on the following individual cases, to which the Government replied by letter dated 11 December 2000.

849. **Álvaro Rosa Cardoso**, a Rom, was allegedly severely beaten on 14 January 2000 after police had been called to a street disturbance. After being held for several hours in police custody in the Aldoar area of Oporto, he was reportedly taken to the Hospital de Santo António where he died. The autopsy report is said to refer to a number of external and internal injuries, stating that the cause of death was bleeding from a ruptured spleen. A judicial inquiry was reportedly immediately opened and an inquiry was also opened by the Interior Ministry's General Inspectorate (IGAI). Disciplinary inquiries into the conduct of two police officers from the Foz and Pinheiro Manso stations were reportedly opened. In April they were reportedly detained, under investigation for homicide. The Special Rapporteur requested the Government to submit information on the results of the inquiries.

850. The Government responded that the police action in the case of the public disorder had ended with two detentions with regard to which there were suspicions that some police officers might have gone too far in their use of force. Violence had been used to force the detainee referred to in the Special Rapporteur's communication to enter the police car. Criminal and disciplinary proceedings were immediately carried out. Two Public Security Police (PSP) officers were charged with murder by the Public Prosecutor of the Court of Oporto and kept under provisional arrest for about six months. The Inspectorate General of Internal Administration concluded that there had been an excessive use of force, but not the intention to kill, and disciplinary procedures were instituted. On the grounds of new evidence raised by the defence, the judge decided not to prosecute and ordered the release of the two officers. The Office of the Public Prosecutor appealed that decision. No final decision had been taken on disciplinary procedures.

851. **Paulo Silva** reportedly died of internal injuries, notably a ruptured spleen, after being taken by ambulance from his mother's house to the Hospital de São João on 14 January 2000. On that day, he had gone to the Cerco area in Oporto to buy drugs, but had been badly beaten by the police. Suspicion fell upon eight PSP officers of the 4th Division, but the police are said to have denied responsibility for the death. The officers were questioned by the homicide branch of Oporto's Judicial Police but by June had not been formally accused and were continuing in their posts.

852. The Government responded that a criminal procedure had been instituted by the Office of the Public Prosecutor at the Court of Oporto and an investigation was initiated by the Inspectorate General of Internal Administration. The procedures are pending and confidential. Disciplinary procedures have been instituted against a group of nine police officers against whom evidence had been gathered.

853. **Juvenal Reis Louro Ova** was allegedly ill-treated in January 2000 by two of several PSP officers at O Poeta café in Tavira. He was allegedly punched. He was taken to the Hospital de Faro where he was treated for his injuries, which reportedly included damage to the lens of the right eye. He was allegedly later warned against making a complaint by the officer who had first assaulted him. However, he reportedly lodged a judicial complaint with the prosecutor of Tavira.

854. The Government responded that Juvenal Reis Louro Ova had lodged a complaint stating that he had been hit on the head with a helmet by a PSP officer and punched by another. Criminal procedures were instituted by the Court of Tavira and disciplinary procedures against the officers were also initiated by the Police Command of Faro. The criminal procedure was dismissed by an order of the Public Prosecutor dated 14 July 2000, for lack of evidence. The police officers claim that they expelled the plaintiff from the bar at the request of the bar owner, as he was causing trouble. The complaint had not been confirmed by witnesses and the medical examination only reported the complaint without confirming the injuries.

855. **Mário João Augusto Rocha**, a black man, is said to have been assaulted in February 2000 by PSP officers who intercepted him while he was walking to his girlfriend's home at Arroja in Odivelas. He was allegedly beaten both before and after being taken to the police station at Odivelas, where he was also racially abused and punched in the bladder, before any demand was made to see his identity papers. After leaving the police station he reportedly went to the Hospital de Santa Maria. He is said to have lodged a complaint with the PSP of Santo António dos Cavaleiros (Loures). A judicial inquiry was reportedly opened and an internal police inquiry was also under way to determine whether disciplinary proceedings should be instituted.

856. The Government responded that a criminal procedure had been instituted by the Public Prosecutor's office at the Court of Loures, which was still ongoing, and that a disciplinary procedure was being carried out by the National Direction of the PSP, which had, however, been placed on hold to await the outcome of the criminal procedure.

Observations

857. The Special Rapporteur considers it appropriate to draw the attention of the Commission to the concern of the Committee against Torture on its May 2000 review of the third periodic report of Portugal under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in respect of "continuing reports of a number of deaths arising out of contact by members of the public with the police ... [and of] inter-prisoner violence in the prisons" (A/55/44, paras. 101-102), as well as the Committee's recommendations, especially, that the State party "should particularly ensure that criminal investigation and prosecution of public officers are undertaken as a matter of course where the evidence reveals that they have committed torture, or cruel or inhuman or degrading treatment and punishment" (ibid., para. 104; emphasis in original).

Romania

858. The Special Rapporteur advised the Government that he had received information concerning officers of the Buzau County Police Inspectorate's emergency intervention subunit (subunitatea de intervençie rapida a Inspectoratului de Poliçie al JudeÛului Buzau). Emergency intervention subunits were said to have been established within all county police inspectorates in the last few months of 1999 on the basis of a General Police Inspectorate order of 26 October 1999. It is reported that the officer appointed to command the subunit was previously disciplined for having committed acts of ill-treatment.

859. In particular, the Special Rapporteur transmitted information on the following individual cases.

860. **Constantin Vrabie** was reportedly arrested in a Buzau discotheque on 8 January 2000 by three men in plain clothes, led to a van and allegedly thrown to the floor and beaten. One of Constantin Vrabie's friends, **Valentin Barbu**, was also allegedly taken to the van and beaten. Reportedly, there were eight police officers in the van, five of them in plain clothes. Constantin Vrabie and Valentin Barbu were allegedly beaten all the way to the Buzau police station, where they were allegedly subjected to intermittent blows to the head by police officers. A medical certificate issued by the Buzau Forensic Laboratory on 10 January 2000 is said to have noted: "massive eye bruise with central open wound and contusion; massive bruises on the lower lip and in the occipital area; massive headache ...; needs 12-14 days of treatment under medical care following the incident, lest other complications arise". Constantin Vrabie is reported to have filed a complaint with the Military Prosecutor's Office.

861. **Silviu Roşioru** made a flippant comment within earshot of police officers on 25 January 2000 in a pub. The officers allegedly threw him to the floor, handcuffed him, and kicked and beat him severely with their batons. He was allegedly beaten throughout the journey to the Buzau police station, where a police report was drawn up. On 26 January 2000, police officers reportedly took Silviu Roşioru out of the police station and left him in the street, although it was reported to be obvious that he could not walk by himself because of his injuries. Eventually, the police officers are said to have called a taxi-cab that took him directly to the surgical department of the Buzau county hospital, where he was admitted and diagnosed with "chest and abdominal injuries, extensive bruising on the left thigh and buttock, head and face injuries and contusions on both hands". He was then transferred to the Emergency Hospital, where he was treated until 1 February 2000. His wife reportedly lodged complaints with the Buzau Military Prosecutor's Office and with the Prosecutor's Office at the Supreme Court of Justice. **Carmen Rotaru**, who accompanied Silviu Roşioru to the pub on 25 January and who reportedly witnessed the whole event, was subsequently allegedly subjected to pressure and intimidation by police officers.

Urgent appeals and replies received

862. Le 18 juillet 2000, le Rapporteur spécial a envoyé un appel urgent en faveur de **Arpad Tokes**, qui serait en train de purger une peine d'emprisonnement de cinq ans à la prison de Miercurea Ciuc. Il souffrirait d'anémie mégaloblastique, d'asthme et d'un ulcère à l'estomac et aurait subi une opération chirurgicale ayant eu pour effet l'ablation de deux tiers de son

estomac. En conséquence, il ne pourrait assimiler la nourriture servie en prison. Le service médical et la direction de la prison refuseraient cependant de lui fournir de la nourriture appropriée à son état. Le 9 juin 2000, il aurait encore perdu quatre kilos et n'aurait pesé plus que 28 kilos. Il aurait été transféré de la prison à l'hôpital pénitentiaire de Dej quelques jours plus tard. Le directeur de cette institution aurait indiqué que, bien qu'ayant regagné du poids, Arpad Tokes continuerait à être dans un état critique et que sa vie serait en danger tant qu'il resterait à l'hôpital pénitentiaire.

863. Par une lettre datée du 10 août 2000, le gouvernement a confirmé qu'il avait été transféré à l'hôpital pénitentiaire de Dej le 14 juin 2000. Il souffre de plusieurs maladies dont une anémie régénérative, une résection gastrique, une bronchite asthmatiforme et un syndrome hippoanabolique. Il est sous surveillance constante et reçoit les médicaments appropriés à son état. Suite à sa demande de grâce appuyée par la Direction générale des pénitenciers, il fut mis en liberté le 25 juillet 2000.

Observations

864. The Special Rapporteur regrets that he has received no response from the Government in respect of the report on his visit to the country in 1999 (E/CN.4/2000/Add.3). In particular, he regrets that he has no information on any follow-up there may have been to his recommendations. In respect of them, he wishes to clarify that his recommendation that "non-governmental organizations and other parts of civil society should be allowed to visit prisons" (para. 57 (d)) should be understood, consistent with his standard practice, as applying to all places of detention, especially including police stations.

Russian Federation

865. By letter dated 21 March 2000, the Special Rapporteur advised the Government that he had received information according to which the use of torture and other forms of ill-treatment in the Russian Federation, in particular in relation to the current conflict in Chechnya, is widespread. It is reported that Chechens, persons suspected to be Chechens or suspected of collaboration with Chechen rebels and persons resident in Chechnya are subjected to torture by soldiers of the Russian Federation Forces, police officers, officers of the special police detachments (OMON), State mobile inspection officers, officers of the Department on Fighting Organized Crime (RUBOP), as well as contract workers hired by the army (kontrakniki).

866. The Special Rapporteur transmitted information relating to the conduct of the Russian Federation troops in Alkhan-Yurt in early December 1999 and in the Staropromyslovski district of Grozny in Chechnya between December 1999 and mid-January 2000. Torture has reportedly been carried out against civilians during military operations in the Chechen Republic. It is alleged that numerous bodies of Chechen men who have allegedly been extrajudicially executed by members of the Russian armed forces at times bore distinct marks of torture or ill-treatment, such as multiple bullet-wounds, cuts, bruises, broken limbs and mutilations.

867. The Special Rapporteur also transmitted information alleging that torture and ill-treatment are widespread in several internment camps or so-called "filtration camps", such as the camp of Chernokosovo, Mozdok camp in North Ossetia and other camps close to Naour,

Goriatchevodsk/Tolstoï Yurt and Katir Yurt, which hold a large number of Chechen civilians, in their majority men. Persons detained in these camps are reportedly subjected, in particular during interrogation, often by masked men, to torture, including rape and other forms of sexual abuse (both men and women, adult and minor, are said to be subjected to various forms of sexual abuse); the severing of ears and fingers; the breaking of limbs; beatings with rifle-butts, rubber truncheons, metal hammers and metal sticks; being stripped naked; being subjected to electric shocks; being forced to perform humiliating actions, such as crawling; and being left in cold and damp cells without toilet facilities. Upon arrival, detainees are reportedly made to run through a corridor of rubber truncheon-wielding camp guards. It is alleged that detainees are at times forced to remain standing with their hands raised for entire days or kneeling with their heads on the asphalt with their hands behind their heads, and that cells are regularly sprayed with tear gas. Some detainees were allegedly released from "filtration camps" after their families paid substantial bribes to Russian officials and after having signed papers saying that they had been well treated.

868. In particular, the Special Rapporteur transmitted information concerning the following individual cases.

869. **Zaindi Kantaev**, a 75-year-old resident of Michurina, had both arms broken by guards of Chernokosovo "filtration camp", who drenched him with petrol and then set him alight. He reportedly died.

870. **Zura Bityeva**, a "Peace March" activist, is said to have been held in a cell opposite that of her son, Idriss, aged 16, who was allegedly severely beaten and had his teeth filed down.

871. **Andrey Babitsky**, a 35-year-old radio journalist on behalf of whom the Special Rapporteur sent a joint urgent appeal with the Special Rapporteurs on extrajudicial, summary or arbitrary executions and on the right to freedom of expression and opinion on 7 February 2000 (see below), was reportedly arrested on 23 January 2000 at a checkpoint on the Grozny-Gudermes road and subsequently detained in the Chernokosovo "filtration camp" where he was said to have been kept in a cell with 15 other detainees and to have been beaten with truncheons several times on his body by Russian guards on the second day of his detention. On 3 February 2000, he was allegedly handed over by the Russian military to Chechen fighters in exchange for Russian soldiers. He was reportedly subsequently released from detention in Makhachkala on 28 February 2000.

872. **Magomet Goigov, Risman Taimaskhanov** and **Khamid Khashiev** were reportedly stopped by Russian soldiers on Eight Liniya (Boulevard) in Grozny, on 19 January 2000, when they were allegedly attempting to take Magomet Goigov's injured mother in a wheelbarrow out of Grozny for medical assistance. The soldiers reportedly killed the woman by shooting her in the head, severely beat the three men and then handed them over to the riot police forces (OMON) who took them to an unknown destination. The bodies of the three men were reportedly found in a garage about one hundred metres from the place where they had allegedly been beaten. A subsequent autopsy of the body of Magomet Goigov is said to have revealed a minimum of 13 bullet wounds. He is also said to have sustained bruises on his face and testicles and a severed right ear, which had reportedly been cut off with a knife. The bodies of Risman Taimaskhanov and Khamid Khashiev are believed to have sustained similar wounds.

873. **Ramsan Rasayev** was reportedly detained by Russian soldiers at the Assinovski checkpoint, the main border crossing with Ingushetia, on 16 December 1999, and allegedly severely beaten throughout the night. He was allegedly beaten with automatic rifles, kicked in the genitals and made to fight a conscript soldier. He is also said to have been repeatedly stabbed before an Ingush police officer intervened and secured his release.

874. **Isa Muradov** was reportedly shot near his veranda in Alkhan Yurt in Chechnya on 8 December 1999. His body reportedly bore the following injuries: his left eye was destroyed, half of his nose was missing, and he allegedly had about 30 bullets lodged in his stomach.

875. **Taus Sultanov** was reportedly shot in the thigh and the stomach by soldiers who came into the cellar where he was said to have been hiding with other members of his family in the village of Alkhan-Yurt. The soldiers remained in the cellar for several hours and no medical assistance was given, which reportedly resulted in Taus Sultanov dying from his injuries.

876. **Aindi Altimirov** was reportedly killed on 18 December 1999. His body was allegedly found on 19 December 1999 near a just-abandoned Russian position next to the Sunzha river in Alkhan-Yurt. His head had reportedly been severed, and there were said to have been traces on his feet and hands, as well as in the grass, which suggested that he had struggled and that he was still alive when his head was severed.

877. **Kosym Reshiev, Natasha Chernova, Khava, Lyusya**, and an **unidentified man** from Shatoi, were reportedly staying in a cellar in Neftyanaya Street in the Staropromyslovski district on 19 January 2000 when several shots where allegedly fired through the wooden door of the cellar. Khava was reportedly wounded in the leg. In the yard, the six soldiers reportedly accused the group of hiding Chechen fighters, which they denied. They were subsequently ordered to go back to the cellar. When they returned to the cellar, the soldiers reportedly threw several hand grenades into the cellar. As a result, they were allegedly all wounded.

878. **Elza Kasayeva** was reportedly raped and killed by Russian soldiers in her home on the Fourth Liniya (Boulevard) in Alkhan-Yurt on 21 January 2000.

879. **Lida Taimaskhanova, Anzor Khashiev**, her 16-year-old son, and **Adlan Akayev** were reportedly found dead on 25 January 2000 in the home of Khamid Khashiev in Grozny. They were reportedly found with white cloth tied around their arms, reportedly to signify that they were civilians, and with identity papers lying next to them which allegedly indicated that they had been required by Russian soldiers to produce these documents. Anzor Khashiev's body was said to have borne marks of torture, such as knife wounds in his leg, his left lung, arms and neck, as well as 19 bullet wounds. His jaw was believed to have been broken. Lida Taimaskhanova's left arm was reportedly broken, she allegedly had a knife wound in her right thigh and several bullet wounds in her chest area.

880. **Said Selim Tugoyev, Saipudin Saadulayev** and **Sulieman Bisayev** were reportedly staying in their cellar on Pereulok Borodina in the Staropromyslovski district of Grozny when on 20 January 2000 two soldiers came to their house. Saipudin Saadulayev was reportedly subsequently killed by a Russian soldier on the street. The same night, the soldiers

reportedly threw a grenade into the cellar. They then allegedly ordered those still alive out of the cellar to check their identity papers. Shortly after the burial of Said Selim Tugoyev on 22 January 2000, Saipudin Saadulayev and Sulieman Bisayev were reportedly taken by the police to the Fifth Liniya (Boulevard), where they were allegedly confronted by a large and angry group of soldiers who reportedly asked their captors why they had been captured alive. They were allegedly subsequently taken to the Karpinsky district, where they were reportedly joined by seven other men under arrest and transferred to a military camp near the Orthodox cemetery in Karpinsk, where they were reportedly placed in a deep pit, insulted and beaten by a soldier. Subsequently, soldiers reportedly poured water over their bodies, which allegedly froze. The next day, they were reportedly chained to the railing in a truck and transferred to a military camp between Grozny and Argun, where they were reportedly detained with nine other men at the back of a military truck in a wire cage which was too small to allow them to stand up straight. The following morning, a group of soldiers allegedly beat some of the men with their fists and rubber batons.

881. **Dr. Rashid Dadaev**, a head doctor, **Umar Uzarov**, a chief medical officer, **Dagman Tepsurkaeva**, a head nurse, chief accountant **Alkhazur** and **Khadishat Basaeva**, a secretary, were reportedly shot at by a Russian military unit on 1 November 1999 when they had reached the gates of the Zakan-Iurt psychiatric hospital, located on the Sunzha ridge. Dr. Rashid Dadaev had allegedly been holding a large white paper with a red cross sign to the windshield of the car to mark it as a medical vehicle. As a result of the shooting, Dr. Rashid Dadaev was reportedly seriously injured, Dagman Tepsurkaeva is said to have sustained wounds in the leg and pelvis and Umar Uzarov was believed to have received superficial bullet and shrapnel wounds. On 6 November, Umar Uzarov reportedly attempted to return to the hospital after the Russian army had reportedly agreed to allow personnel to tend to patients at the hospital. Russian snipers reportedly opened fire, hitting his leg and shattering his left shin bone.

882. Further, the Special Rapporteur has received information that Chechens, persons suspected to be Chechens or those suspected of collaboration with Chechen rebels are subjected to torture or ill-treatment in police stations and pre-trial detention centres outside Chechnya. Torture outside Chechnya is reported to occur during and after the checking of identity documents, and during arrest and interrogation relating to ethnicity, in order to punish and intimidate the detainees and to extract confessions to criminal offences, in particular of drug and narcotic-related offences or weapons offences. Torture methods are said to include beatings, especially to the spine and kidneys and often until the person is unconscious, kicks to the genitals, electric shocks and asphyxiation by use of gas or by use of a plastic bag. It has been reported that persons have been handcuffed with their arms behind their back and hung from the ceiling by the handcuffs, and have then been beaten with a club.

883. The Special Rapporteur transmitted information concerning the following individual cases.

884. **Badrudy Eskiev**, a Chechen engineer, was reportedly taken from his home in Moscow on 15 September 1999 for an identity check at the Lyublino District Department of Internal Affairs (OVD) by two uniformed police officers with sub-machine guns and a third man in civilian clothes carrying a pistol. On 17 September, Badrudy Eskiev was allegedly transferred to

the pre-trial detention centre "Matrosskaya Tishina" and held under article 228 (1) of the Russian Criminal Code for possession and use of narcotics. He was allegedly taken to the basement of a police station, where police officers reportedly put a plastic bag over his head until he began to suffocate. He was reportedly beaten and allegedly lost consciousness twice during the interrogation. He was said to have been forced to sign a document and to have had drugs added to his drinking water.

885. **Zelimkhan Abdul-Vabovich Temirsultanov**, aged 17 years, was allegedly stopped in his car by State mobile inspection officers in Moscow on 18 September 1999. The officers were said to have taken him to the Moscow State University police department, where he was allegedly taken to a separate room, beaten, verbally abused and threatened with further physical violence, such as having his kidney split open with a metal instrument.

886. **Razmik Nagdalian**, an Armenian born in Azerbaijan who is said to suffer from a type of epilepsy, was reportedly stopped on the street in Moscow by an officer of the special police detachments (OMON) on 23 September 1999. The officer allegedly checked his passport and subsequently a number of officers are said to have taken him to a square, where they reportedly beat him, kicked him around his kidneys and allegedly delivered a blow to his head. As a result of the beatings, he is believed to have suffered increasingly from epileptic attacks. His attempts to lodge a complaint remained unsuccessful.

887. **Islam Bashirov**, a paediatric anaesthetist from Grozny who had allegedly been living in Moscow since 1997, was said to have been visited by police in a student hostel in Moscow on 22 August 1999. Three officers handcuffed him and made him face a wall. They are then said to have verbally abused him, beaten him for several minutes and to have punched him on the spine. He is also believed to have been kicked in the area of his genitals. He was reportedly subsequently detained in the SIzo (pre-trial detention centre) in Butyrka.

888. **Suleiman Saidmukhamedovich Mudaev**, a Chechen, was reportedly beaten by officers of the Department on Fighting Organized Crime (RUBOP) with clubs on his spine and kidneys in a garage near Butyrka prison, on Krasnopresnenskaya street in Moscow on 20 September 1999. He was allegedly subsequently detained in SIzo Butyrka in a cell with 76 other detainees.

889. According to the information received, no, or no prompt, effective and impartial investigations of complaints or allegations of ill-treatment and torture have been carried out by the authorities, as a result of which perpetrators are said not to have been identified and brought to justice. It is also reported that a very large number of alleged victims refuse to complain or to have their names made public because of fear of retaliations.

890. By letter dated 7 August 2000, the Special Rapporteur transmitted to the Government information on the Temporary Department of the Interior (TDI) or "Internat" "filtration camp" in the town of Urus-Martan, Chechnya. It is reported that the ground floor of this building, a former boarding school, was used as a place of detention and torture of Chechens by special militia detachments of Russian military units. In particular, the Special Rapporteur transmitted information on the following individual cases.

891. **Alikhan Shakhiev** was reportedly arrested on 29 March 2000 in the village of Komsomolskoye by OMON officers from the city of Perm. He was reportedly taken to the TDI of Urus-Martan, where he was allegedly beaten and kicked upon arrival. When he denied being a fighter, while being interrogated, iodine was allegedly applied to his forehead, nose and eyes, before he was beaten by an officer. He was allegedly made to witness the torture of another detainee and threatened that he would be subjected to similar treatment. He is said to have been detained in a cell measuring 3 metres by 3 with 28 other people. Fourteen of the persons detained in this cell had allegedly been severely beaten. On 1 April, he was released, reportedly after his relatives had given a rifle and 600 United States dollars to the members of the militia.

892. **Bortchshwilli**, from the village of Anissovskaya, died from beatings he was allegedly subjected to.

893. **Mavtaev Jamil Usmanovich** was reportedly arrested by some 30 military officers on 6 May 2000. He was allegedly kicked and beaten at the time of his arrest. On his way to the TDI of Urus-Martan, he was said to have been forced to lie face down and to have been beaten. Upon arrival, he was reportedly forced to crawl on his knees and was then handcuffed to the heating system. He was then severely beaten, humiliated and insulted by drunk OMON officers from the city of Penza during the entire following night. He was also reported to have been subjected to simulated executions: a rope was placed around his neck in order to suffocate him; a gun was placed in his mouth and he was threatened with being killed. Then, he was reportedly placed in a cell with three other persons who had also been severely beaten. The following day, he was reportedly interrogated and threatened by the same officers in the presence of their chief. He was allegedly slapped each time he did not give a satisfactory answer. A video camera is said to have recorded the interrogation session. It is alleged that he was beaten during the entire period of his detention, i.e., 10 days. At some point, he reportedly complained about the beatings to a colonel and a doctor is said to have come to examine him. He was given an injection and was told that every detainee had to be killed.

894. **El'mursaev Nauldi Adievich** was reportedly arrested on 6 May 2000 in the house of his neighbour, Mavtaev Jamil Usmanovich (see above). He was subjected to the same treatment. On 9 May, he was reportedly transferred to Urus-Martan hospital, allegedly because his life was feared for. There, it was reported that he had broken ribs.

895. **El'mursaev Zelimkhan Alievich** was reportedly arrested on 6 May 2000 by some 20 OMON officers from Pensensky, despite the fact that his mother was said to have given a machine-gun to a commandant in order to "pay" for the amnesty of her son. He was allegedly taken to one of the pits in the village of Komosomolskoye in which dead bodies were said to have been placed, was stripped naked and threatened with being killed. He allegedly received a blow to force him to kneel. He was threatened with torture if he did not confess to having participated in the fighting in the village of Komosomolskoye. He reportedly refused to sign any confession and was then allegedly severely beaten before being taken away to the TDI of Urus-Martan. There, he was allegedly stripped naked a second time. He was reportedly made to stand against a wall, beaten with batons and then put in a cell. The following day, he was beaten and humiliated while being asked to sign a confession. He was reportedly released

on 13 May 2000 after having signed a statement according to which he had not been tortured and had been well treated. His mother is said to have tried to take him to the Urus-Martan hospital, but there was no place to treat him. On the same day, he was eventually treated at Nazran hospital for multiple injuries.

896. **Giriev Said-Emin Uvaisovich, Giriev Arbi Uvaisovich, Giriev Said-Hussein Uvaisovich** and **Sugaipov Musy Musaevich**, all from the village of Starye Atagi, where they were reportedly captured by Federal troops on 27 January 2000, were allegedly taken to an unknown location. On 15 June 2000, their bodies were said to have been found. They reportedly bore marks of torture. All four had their hands broken, their knees injured and their ribs broken. Their hands were reported to have been tied together behind their backs with a steel rope. They were all shot dead in the head, except Giriev Arbi Uvaisovich, who was believed to have been suffocated with his own scarf.

897. The Special Rapporteur also transmitted information that there had been numerous cases of rape during the course of the conflict. Federal army soldiers were said to be the perpetrators and generally killed the rape victims. Such incidents are said to have occurred in Alkhan-Jurt in December 1999; Shaly in January 2000, and Grozny in February 2000. In particular, the Special Rapporteur received information on the following individual case.

898. **Heda Kungaeva**, a 17-year-old girl from Tangi-Chu, was allegedly kidnapped by Colonel Budanov and his soldiers during the night of 26 March 2000. On 28 March, they reportedly gave her body to the villagers. A medical expert is said to have concluded that before being killed she had been raped by several men. The General Prosecutor's Office started an investigation procedure on this case and on 30 March 2000 Colonel Budanov was arrested. He reportedly claimed that during interrogation he had been trying to make the girl confess her sniper activities and that, in a state of insanity, he had killed her.

899. By letter dated 20 November 2000, the Government responded that the bodies of Said-Emin Giriev, Said-Hussein Giriev and Musy Musaevich Sugaipov had been found, bearing marks of a violent death, in the village of Starye Atagi in the Chechen Republic on 16 June 2000. Criminal proceedings were instituted on 19 June (for homicide of two or more persons) and are currently being pursued. On 27 March 2000, criminal proceedings for homicide and acting in excess of authority were initiated against the commander of the tank regiment, in connection with the killing and rape of Heda Kungaeva (Elza Visaevna Kungaeva). He has been placed in custody as a preventive measure and is presently undergoing psychiatric appraisal.

900. By the same letter dated 7 August 2000, the Special Rapporteur, in conjunction with the Special Rapporteur on violence against women, its causes and consequences, reminded the Government of their pending request to visit the Russian Federation with respect to the situation in the Republic of Chechnya.

901. By letter dated 6 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1997 regarding which no reply had been received.

Urgent appeals and replies received

902. On 28 January 2000, the Special Rapporteur sent an urgent appeal on behalf of **Dmitri Antonvich Neverovsky**, an active member of the Radical Anti-Militarist Association of the Obninsk Regional Human Rights Groups. When called up to military service in May 1997, he reportedly appealed to uphold his constitutional right to do alternative civilian service. His appeal was rejected in January and June 1999. He was reportedly found guilty by the Obninsk city court of "evasion of military service" and sentenced to two years' imprisonment. It is believed that this sentence was intended to put pressure on his mother, Tatiana Kotliar, the head of a regional human rights group and a member of the Obninsk City Council, who has been helping young men called up to military service to defend their constitutional rights. On 18 January 2000, Dmitri Antonvich Neverovsky was allegedly hit with a truncheon and confined to a reportedly freezing punishment cell for two weeks, apparently for not having his hands behind his back as he left his cell.

903. By letter dated 14 February 2000, the Government responded that the Supreme Court was in the process of reviewing the criminal case against V.A. Neverovski, who had been convicted on 25 November 1999 for violating article 328, part 1, of the Russian Criminal Code. By letter dated 11 July 2000, the Government further informed the Special Rapporteur that, on 8 February 2000, the Kaluga Oblast court set aside the judgement against V.A. Neverovski on grounds of breach of his right to defence, and his case had been sent for retrial. The procurator's office could not corroborate his allegation of ill-treatment and confinement to a punishment cell for a minor breach of the prison rules.

904. On 7 February 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the right to freedom of opinion and expression on behalf of Andrey Babitsky, a journalist for Radio Liberty, on behalf of whom the Special Rapporteur on the right to freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on Arbitrary Detention intervened on 1 February 2000. He was reportedly handed over to Chechen fighters in exchange for captured Russian soldiers. It is believed that he was in detention in Khankala, in Chechnya, and would shortly be transferred to the city of Mozdok, in the Republic of North Ossetia, and then to Moscow.

905. On 23 February 2000, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Omar Khambiev**, Chechen Minister of Health and a surgeon, and his medical team: **Sharip Khambiev, Shaih Zairkhanov, Shirvani Gadaev, Abubakar Ismailov, Samrudy Zhabrailov, Malika Edisultanova, Zarema Khasimova** and **Aminat Amalaeva** (the last three women); and 15 other persons who have allegedly been detained incommunicado by the Russian forces since 2 or 3 February 2000 in the Mozdok "filtration camp" in North Ossetia.

906. On 3 March 2000, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on violence against women, its causes and consequences and the Special Rapporteur on extrajudicial, summary or arbitrary executions regarding the situation in the Republic of

Chechnya and expressed their concerns regarding allegations of extrajudicial executions and rape by Russian troops, of arbitrary detention in so-called "filtration camps" and massive arrests without warrant, forced displacement of the civilian population, as well as of torture in those camps. It was alleged that detainees were beaten, sexually abused, stripped naked and left in cold cells.

907. On 5 March 2000, a press release was issued by the Special Rapporteurs and the Chairman-Rapporteur on the situation referred to above.

908. On 24 March 2000, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Visita Vakhidovich Arsanukayev, Vakha Alievich Titayev, Maerbek Didayev** and **Valid Alievich Arsamerzoyev**, who had reportedly been arrested by Russian forces on 13 January 2000 at the checkpoint in the village of Duba-Yurt. They were first taken to Chernokozovo camp.

909. On 10 May 2000, the Special Rapporteur sent an urgent appeal on behalf of **Adam Abubakarov**, a 16-year-old Chechen, who was reportedly detained incommunicado by the Russian authorities, possibly at a prison hospital in the town of Pyatigorsk. On 22 or 23 February 2000, he had been detained by Russian forces at an army checkpoint in the Chechen town of Urus-Martan. He was then reportedly taken to a "filtration camp", known as the "Internat", in a former school. His mother subsequently visited the "Internat" camp along with relatives of other detainees. The prison authorities allegedly demanded US$ 1,000 for the release of each detainee. His mother collected the money, but when she went back to the camp Chechen guards reportedly informed her that the prisoners had already been transferred to another detention facility in the Chechen village of Znamenskoye. Since then, he had reportedly been transferred to a "filtration camp" in Mozdok, and possibly from there to the prison hospital in Pyatigorsk in the Stavropol Territory.

910. By letter dated 4 July 2000, the Government responded that A. Abubakarov had not been detained, was not remanded in custody and was not subject to any criminal proceedings. He was not held in a detention facility of the Ministry of Justice.

911. On 6 June 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Taisa Isayeva**, a Chechen journalist, who had reportedly been arrested by Russian forces on 2 June 2000 when she tried to cross the border from North Ossetia in the Russian Federation into Georgia at the "Nizhny Zaramag" border checkpoint. She was allegedly held incommunicado at a secret "filtration camp".

912. By letter dated 22 August 2000, the Government responded that, on 1 June 2000, Taisa Mutsolayevna Isaeva and F. Kovroyeva had been invited to go to the Vladikavkaz border unit in order to clarify the circumstances of their arrival at the "Nizhny Zaramag" checkpoint. Under a bilateral agreement between the Republic of Georgia and Russia, residents of the Chechen Republic can only enter Georgia via the "Verkhny Lars" checkpoint. After establishment of their identity, it was suggested to them to spend the night in the hotel of the border unit, which they agreed to do. They were not detained and no property was confiscated.

On 2 June, they left the border unit. They did not submit any complaints to the border officials. Their whereabouts are not known. Law enforcement bodies in the North Caucasus have been instructed to continue inquiries to determine the whereabouts of Taisa Isayeva.

913. On 24 August 2000, the Special Rapporteur sent an urgent appeal on behalf of **Khadji Khudjaev**, an ethnic Uzbek imam from the city of Ishim in the Tyumen region of the Russian Federation, who was reportedly facing imminent deportation to Uzbekistan, where he may be at risk of torture. He was reportedly arrested by Russian police in Omsk while he was attending a joint meeting of Muslim organizations in Russia. His detention was at the request of the Uzbek authorities, who are said to have issued an arrest warrant, under article 159 of the Uzbek Criminal Code, in connection with his alleged involvement in an attempt to overthrow the constitutional order of Uzbekistan.

914. On 19 September 2000, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Ruslan Alikhadzhiyev**, the speaker of the Chechen separatist "Republic of Incheria" Parliament, who had reportedly been arrested on 17 May 2000 in Shali by Russian troops. At a 25 May press briefing, the deputy chief of the Russian army general staff, General Manilov, confirmed that he had been captured. He was reportedly first taken to a Russian military intelligence (GRU) facility in the Chechen town of Argun, before being transferred to a prison in Moscow, possibly the Lefortovo, run by the Russian Federal Security Service, where he was reportedly held incommunicado.

915. By letter dated 9 October 2000, the Government responded that R.S. Alikhadzhiev had not been arrested by federal troops and was not held by the Federal Security Service. On 17 May 2000, he was abducted by unknown persons with firearms in Shali. On 27 July, the Procurator's office for the Shalinsk district instituted criminal proceedings. A number of investigations were being undertaken to determine the perpetrators and his whereabouts.

Follow-up to previously transmitted communications

916. By letter dated 29 May 2000, the Government responded to all cases transmitted by the Special Rapporteur in November 1999 (E/CN.4/2000/9, paras. 883-906).

917. Concerning Mikhail Aleksandrovich Yurochko, the Government indicated that allegations that he had been beaten by members of the Arkhangelsk municipal police in 1993 could not be substantiated. But it recognized that he had been arrested without warrant. This was facilitated by the absence of proper procuratorial monitoring of the investigation of the crimes he was suspected of having committed. Therefore, the Lomonosov district procurator, his deputy and the head of the department for investigations were all dismissed. A. Yurochko has not sued for damages in connection with his unwarranted arrest, detention and sentencing.

918. Concerning Igor Akhremenko and his wife Zhanna Seshchekvya, the Government noted that they had not filed any complaints regarding police brutality. Allegations that the police had used unlawful methods of investigation had been checked by the court during I. Akhremenko's trial. The allegations were unfounded.

919. Concerning Sergey Vladimirovich Mikhailov, the Government indicated that he had been found guilty of raping a number of girls and of murdering one of them, after having confessed to the crimes.

920. Concerning M.A. Sobolyev, the Procurator's Office in Yekatarinburg initiated criminal proceedings in June 1995 in respect of action ultra vires by police officers. As the investigation was dragging on, in March 1999 the Federal Procurator-General's Office reassigned the case to the Perm Regional Procurator's Office to complete the investigation. The district court eventually found insufficient grounds for rendering a judgement and the case was remanded back to the Perm Regional Procurator's Office for further investigation in February 2000. The Leninsky District Court in Yekaterinburg had currently before it a civil case concerning the suit brought by M.A. Sobolyev relating to the unlawful actions of the authorities and seeking compensation for moral damage. By the court's decision, hearings have been suspended until the aforementioned criminal case is reviewed on its merits.

921. Concerning Andrey Potanin, the Government indicated that there had been no criminal proceedings against him and that the search of his apartment had not been approved by the Procurator's Office, which render dubious his allegations.

922. Concerning G.A. Illyin, the Government indicated that he had offered resistance at the time of his arrest and that consequently force had to be used by the arresting police officers. This version of the facts had been confirmed by all the witnesses, including Ilyin's wife. According to a forensic examination, he had bodily injuries of a minor nature. No complaint of brutality during his stay in the temporary isolation facility has been filed. Thus, the Inter-district Procurator's Office considered that the use by the police of physical force had been justified and refused to open criminal proceedings against the arresting police officers.

923. Concerning D.S. Zhukov, the Government confirmed that he was diagnosed at the military hospital with severe malnutrition, a fractured nasal bone and multiple superficial bodily injuries. On 18 November 1995, the Military Prosecutor's Office initiated criminal proceedings. The investigation revealed that, taking advantage of the absence of proper monitoring by officers, a corporal had beaten him. Severe disciplinary measures were taken against officers for neglect of their training functions and poor monitoring of the activities of their subordinates.

924. Concerning D.A. Andreyev, the Military Prosecutor's Office instituted criminal proceedings against two officers for abuse of power in August 1996. The proceedings were dropped on legal grounds in November 1996 as the investigations revealed that D.A. Andreyev had suffered no injuries and had not been ill-treated. He had been handcuffed and brought to the guardhouse after having tried to assault two officers while receiving medical treatment for a sprained ankle.

925. Concerning Viktor Fyodorovich Andreyev, the Government indicated that he had been beaten by two officers on the night of 12 June 1995 and had been bound. When he untied himself, V.F. Andreyev who was in a state of severe emotional agitation, shot the sleeping company commander three times. The latter died from his injuries. On 21 July 1998 a military court found V.F. Andreyev guilty of homicide carried out in a state of temporary insanity and sentenced him to two years and three months' imprisonment. Proceedings in respect of action

ultra vires against two officers have been dropped, one having died in the meantime and the other having benefited from an amnesty. V.F. Andreyev did not appeal against this decision. During his pre-trial detention, V.F. Andreyev received regular medical check-ups.

926. Concerning Aleksandr Volodko, the Municipal Procurator's Office instituted criminal proceedings in September 1996 on the basis of a statement of his wife to the effect that he had been beaten by police officers. The investigations revealed that the allegations were unfounded. The Government noted that A.Volodko kept accusing different police officers. The investigator from the Procurator's Office was now looking into an account that, at Volodko's request, his cell mates caused his bodily injuries. The version of the facts as transmitted by the Special Rapporteur has never been reported to the investigator from the Procurator's Office, nor is it borne out by the conclusions of the forensic medical experts.

927. Concerning Boris Botvinnik and Mikhail Shekolenko, the Government indicated that their interrogation had been videotaped or had taken place in the presence of their lawyers. They confessed to their crimes and never complained of unlawful investigative methods. It was only in October 1996 that they complained about ill-treatment. Their allegations were carefully checked by the Office of the Procurator-General. No bodily injuries were found. No criminal proceedings were initiated because of the lack of evidence. Boris Botvinnik was released on 17 April 1997 to be treated for eyesight problems.

928. Concerning Tatyana Popkova, no information was found by the Government.

929. Concerning A.V. Koltsov, the Government stated that he had been arrested on 11 September 1996 and later transferred from the temporary detention facility in Aralsk to the police investigator in Cheremukhovo and later to the temporary detention facility in Angarsk, where he complained of pain in the chest area. Forensic medical specialists concluded that these injuries could be classified as minor and could have been received by Kolstov at a time other than the time of his arrest and transfer. All officials involved in the case were questioned. But, it was not possible to establish how he had obtained his injuries. The Irkutsk Regional Procurator's Office closed the case. A.V. Koltsov has not appealed the decision and has brought no suit against the police.

930. Concerning Oleg Fetisov, a minor, who was said to have escaped interrogation by jumping out of a window, the Government indicated that the Verkh-Isetskoe district Procurator's office had opened criminal proceedings into his allegations that the reason for his escape was the ill-treatment to which he was subjected while being interrogated. Witnesses confirmed that he had not been ill-treated and criminal proceedings were dropped. Disciplinary measures were imposed on the police officers for their inattention, which had allowed O. Fetisov to make his escape attempt.

931. Concerning Kirill Komlev, Anton Shamberov and others, the Government indicated that twice (on 7 March and 23 September 1997) criminal proceedings emanating from their statements were rejected for failure to prove that the actions of the police constituted a crime. Their allegations were considered to be unfounded.

932. Concerning Aleksey Alekseev, the Government indicated that it needed more information to identify the person. The records of persons arrested or brought in to the police in March 1997 listed no one by this name.

933. Concerning V.I. Afonkin, the Government indicated that he and another adolescent had resisted arrest on 12 June 1997, which had led to the use of tear gas by the police. A medical examination confirmed that both youths had been severely intoxicated by the gas. Their arrest, as well as the use of physical force to do so, was considered to be justified.

934. Concerning Dmitry, Ivan and Aleksandr Koryagin, the Government indicated that the brothers had been arrested after a fight in a café. In order to prevent Dmitry from being placed in the sobering-up clinic, his two brothers used violence against the police. Rubber truncheons and tear gas had to be used to handcuff them. Aleksandr started to bang his head against the door and injured himself. Medical reports were later established. After investigation, it was concluded that the use of force by the police had been legitimate.

935. Concerning Vitaly Kovalev, the Government indicated that it was not possible to trace him.

936. Concerning Sergey Samsonov, it stated that he was charged with the crime of premeditated murder involving the rape of four young girls.

937. Concerning Andrey Nikolaevich Getsko who was shot by a policeman while escaping the crime scene, the Government indicated that no complaint regarding the use by the police of unwarranted methods of arrest or treatment had been filed by him. Criminal proceedings were opened against him and he was placed in pre-trial detention. During his trial, he stated that after his arrest he had been subjected to physical violence. The case was sent for further investigation on 17 April 2000.

938. Concerning V.V. Rakovich, the President of the Krasnodarsk Human Rights Association, and his assistant, the Government indicated that they had been beaten by unknown assailants on the street. Criminal proceedings were initiated by the local police investigation in connection with this incident. One of the suspects was eventually arrested. He indicated that he had been paid by someone to attack V.V. Rakovich in order to enhance his image as a defender of the law.

Observations

939. The Special Rapporteur appreciates the cooperation shown by the Government in responding to information he has transmitted. The nature of the allegations are nevertheless a matter of continuing grave concern. In this connection, he deeply regrets that the Government has not seen fit to invite him to visit the area of Chechnya, after he requested a joint visit with the Special Rapporteur on violence against women, its causes and consequences, in April. He also regrets that he has received no further information from the Government in respect of follow-up to the recommendations contained in the report on his 1994 visit to the Russian Federation (E/CN.4/1995/34/Add.1). Increased reports of ill-treatment at the hands of the police are especially disturbing.

Rwanda

Urgent appeals

940. Le 3 mars 2000, le Rapporteur spécial a envoyé un appel urgent en faveur de **Bertin Murera**, membre de l'Armée patriotique rwandaise (APR), **Benjamin Rutabana**, membre démobilisé de l'APR, **Janvier Rugema**, membre de l'APR, **Innocent Byabagamba**, membre de l'APR et **François Rukeba**. Bertin Murera et Benjamin Rutabana auraient été renvoyés de force de Tanzanie vers le Rwanda le 5 février 2000 et seraient actuellement détenus au centre de détention militaire de Kanombe qui se trouve proche de Kigali. Janvier Rugema, Innocent Byabagamba et François Rukeba auraient été renvoyés de force du Burundi vers le Rwanda et seraient également détenus dans le même centre de détention militaire. Les raisons de leur détention ne sont pas connues.

941. Le 11 mai 2000, le Rapporteur spécial a envoyé un appel urgent conjoint avec le Président-Rapporteur du Groupe de travail sur la détention arbitraire en faveur de **Bruno Bhatati Barhalibiru**, citoyen de la République démocratique du Congo et membre du Collectif des organisations des jeunes du Sud-Kivu (COJESKI), de l'Association ensemble pour la défense des droits de l'homme (EDDH) et d'autres organisations non gouvernementales au Sud-Kivu. Il aurait été arrêté le 22 avril 2000 au poste frontalier de Katuna, à la frontière entre le Rwanda et l'Ouganda, par les forces de sécurité rwandaises alors qu'il se rendait à Bukavu, où il réside, après avoir participé à la consultation nationale organisée par les chefs des confessions religieuses à Kinshasa. Il aurait été transféré à Kigali au centre de détention de la gendarmerie de Gikondo, où il serait détenu au secret.

Saint Lucia

Urgent appeals and replies received

942. On 29 June 2000, the Special Rapporteur sent an urgent appeal on behalf of **Alfred Harding**, a national of Barbados, who had reportedly been sentenced on charges of possessing an illegal firearm and ammunition, and who was said to be detained in a section of HM Prison in St. Lucia reserved for those under sentence of death. He has had his ankles permanently held in mechanical restraints, held together by a chain of six inches, causing injury to his feet, since the beginning of his imprisonment on 31 August 1999. It is believed that the restraints are applied for punitive purposes. Prison guards are also said to regularly apply handcuffs to him at night, to subject him to frequent punitive cell searches and to deny him exercise and visits. They are further believed to have regularly beaten him since his arrival.

943. By letter dated 11 October 2000, the Government responded that Alfred Harding continued to serve the remainder of his sentence, that he was housed in a single cell for security purposes and that he was given regular recreation and exercise. It further stated that he had been awarded EC$ 25,000 in damages for shackling and solitary confinement.

Saudi Arabia

Urgent appeals and replies received

944. On 10 October 2000, the Special Rapporteur sent an urgent appeal on behalf of **Sheikh 'Ali bin Dhib al-Mahan**, and **Mahdi bin Dhib al-Mahan,** two teachers and members of the Ismaili sect of shia Islam, one of Saudi Arabia's religious minorities, who were reportedly sentenced to a year in prison and 1,500 lashes, to be carried out in front of their families, students and other teachers, on charges of "sorcery". They were among scores of people arrested in Najran in April, after members of the town's Ismaili community protested against the closure of their mosque by security forces. Many **other members of the Ismaili** community arrested with them are now reportedly held incommunicado.

945. By letter dated 8 December, the Government indicated that Ali bin Dhib al-Mahan had been placed in preventive detention on 2 November 1999 on the charges of engaging in acts of sorcery and charlatanry in the region of Najran and had admitted to the facts. He was sentenced on 10 June 2000 to a term of three years' imprisonment. The Court of Cassation upheld the sentence in a decision in July. Madhi bin Dhib al-Mahan had been placed in preventive detention on 6 November 1999 on the same charges and that of causing harm to several persons. His case is still pending since, when on trial for those charges, new complaints were brought against him. Finally, the Government indicated that their religious affiliation had nothing to do with their cases and that they were not subjected to any form of torture or ill-treatment.

Senegal

946. Par une lettre datée du 28 juillet 2000 envoyée conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats, le Rapporteur spécial a informé le gouvernement qu'il avait reçu des renseignements concernant le cas suivant.

947. **Hissène Habré**, président du Tchad de 1982 à 1990 aurait été inculpé et placé en résidence surveillée par le doyen des juges d'instruction de Dakar, Demba Kandji, le 3 février 2000, suite à une plainte pour tortures déposée par l'Association of Victims of Crimes and Repression in Chad soutenue par un certain nombre d'organisations non gouvernementales sénégalaises et internationales. Le 30 juin 2000, le Conseil supérieur de la magistrature aurait cependant décidé de nommer Demba Kandji avocat général près la cour d'appel de Dakar. Des craintes ont été exprimées quant au fait que sa nomination ait été une manœuvre destinée à l'empêcher de suivre le dossier contre Hissène Habré. De plus, pendant la même session du Conseil supérieur de la magistrature, le Président de la Chambre d'accusation, celui-là même qui aurait levé les charges pesant contre Hissène Habré, aurait été promu au Conseil d'État.

948. Par une lettre datée du 9 novembre 2000, le gouvernement a tout d'abord tenu à préciser que l'annulation des poursuites pénales contre Hissène Habré est une décision juridictionnelle conforme en tout point au droit et n'a donc pu être influencée par le pouvoir politique. En vertu

du principe de territorialité en vigueur au Sénégal, les juridictions nationales ont dû se déclarer incompétentes car les actes reprochés en l'espèce ont été commis à l'étranger. La Constitution ne fait pas de référence à des règles de droit international public et la Convention des Nations Unies sur l'imprescriptibilité des crimes de guerre et des crimes contre l'humanité invoquée à l'appui des poursuites n'a pas été ratifiée par le Sénégal. Quant à la Convention des Nations Unies contre la torture, elle a été ratifiée le 16 juin 1996 par le Sénégal alors que les faits reprochés portent sur la période datant de juin 1982 à décembre 1990. Ces faits étaient déjà prescrits selon les lois nationales. Le gouvernement note que la Convention n'a par ailleurs pas rétroactivement modifié les délais de prescriptions en vigueur dans les États parties. Par ailleurs, le gouvernement note que le fait que la date des faits incriminés demeure indéterminée bénéficie obligatoirement au prévenu. Le bien-fondé de l'arrêt en annulation de la Chambre d'accusation résulte de ce qui précède et des articles 165 et 199 du Code de procédure pénale. Le gouvernement note l'absence d'enquête préalable sur la réalité des faits sur place ainsi que d'étude sérieuse sur la valeur juridique des instruments invoqués. Il note la facilité et la précipitation avec lesquelles la procédure a été déclenchée et conduite jusqu'à l'inculpation et la mise en résidence surveillée d'une personne bénéficiant de surcroît d'un droit d'asile au Sénégal. L'arrêt précité a le caractère de la chose jugée et est donc exécutoire. Finalement, le gouvernement a donné des précisions concernant l'indépendance du système judiciaire sénégalais.

Spain

949. Con fecha 10 de octubre de 2000, el Relator Especial notificó al Gobierno que había recibido información sobre los siguientes casos individuales.

950. **Antonio Augusto Fonseca Mendes**, nativo de Guinea-Bissau, habría fallecido mientras estaba bajo custodia policial en Arrecife, Lanzarote (Canarias) el 20 de mayo de 2000. Habría sido supuestamente maltratado por agentes de policía antes de su muerte. Habría sido arrestado después de haberse negado, a la solicitud de dos oficiales de una patrulla policial en Arrecife, a entregar sus documentos. De acuerdo con la declaración policial, el nombrado intentó escapar y las heridas producidas fueron causadas por su actitud agresiva durante el arresto. Después de haber sido detenido, habría quedado en estado de semiinconsciencia y se habría solicitado ayuda médica. Se afirmó que habría consumido un paquete de drogas que posteriormente le habrían provocado una herida interna causando su muerte. La versión policial ha sido puesta en duda por los familiares de Antonio Fonseca quienes habrían tomado fotografías de su cuerpo en el depósito, que mostrarían heridas externas en su cuerpo, incluyendo su rostro que habría sido duramente golpeado. En una autopsia ordenada por el juez de investigación y realizada por un especialista forense independiente se habrían observado varias contusiones y heridas de "especial importancia" en la parte derecha de su cuello que habría provocado su asfixia. El forense habría determinado que las heridas habían sido producidas por el golpe de un objeto contundente. Un informe toxicológico con un exhaustivo examen realizado por representantes del Instituto Nacional de Toxicología no habría encontrado rastros de drogas en la sangre y vísceras de la víctima.

951. **Trinidad Arteaga Orejón** habría sido maltratada después de su arresto el 22 de enero de 2000 como consecuencia de un altercado en el Café Teatro en Valladolid, después de que supuestamente le solicitaran que abandonara el lugar debido al ruido que hacía. Regresó al

lugar, lo que habría provocado el llamado a la policía. En la estación de policía mientras quedaba esposada y ante la presencia de cuatro agentes uniformados, habría sido violentamente empujada contra la pared, habiendo recibido heridas en la cabeza, y le habrían propinado puñetazos en sus brazos y cabeza hasta caer al suelo, donde habría sido pateada repetidamente. Habría sido levantada de sus cabellos. Un informe médico haría referencia a "múltiples golpes en el cráneo y coxis" y a una torcedura de su muñeca izquierda.

952. **Araceli Benita Ramos Acosta**, embarazada de cuatro meses, habría sido aparentemente maltratada el 24 de febrero de 2000, por dos agentes de la policía autónoma catalana, (Mossos d'Esquadra), en Figueras. Se habría involucrado en una discusión a gritos con su esposo sobre la tenencia de sus hijos mientras estaban fuera del hotel, y ella misma habría llamado a la policía para que la ayudara. La policía habría intentado arrestarla, y durante su resistencia habría sido golpeada en el mentón, con una porra en la cabeza y su espalda habría recibido rodillazos. Un informe médico haría referencia a golpes en la mano izquierda, en la cabeza y contusiones en las rodillas. Habría sido llevada esposada a la estación de policía de Rosas.

953. **Emilio Romero Arancibia**, periodista chileno, habría presentado una queja judicial por haber sido golpeado con una porra por dos agentes de la policía Nacional en Barcelona el 12 de marzo de 2000. Un informe médico haría referencia a múltiples golpes y heridas.

954. **Sami Bouhamla-Riedo**, un hombre de nacionalidad suiza y tunecina, durante unas vacaciones en Ibiza en mayo de 2000 habría sido golpeado por agentes de policía con porras, empujado y mojado con agua fría con una manguera. Su cabeza habría sido golpeada repetidamente contra una pared.

955. **María de los Angeles Robles García** habría sido maltratada por la policía en Badajoz en febrero de 2000. La nombrada habría sido detenida por la policía después de que ellos se les habrían aproximado a ella y a su esposo para verificar su identidad, ya que, según ella, "parecíamos extranjeros".

Sri Lanka

956. By letter dated 5 October 2000, the Special Rapporteur advised the Government that he had received information on the following individual cases.

957. **Anthonipillai Binoth Vimalraj**, a Tamil man originally from Mannar, was reportedly arrested on 24 August 1999 at New Asia lodge. During interrogation at Kotahena police station, he was allegedly beaten all over his body, had pins inserted under his fingernails and had an iron rod inserted into his anus.

958. **Sarathambal Saravanbavananthakurukal**, of a Hindu Brahmin family, was reportedly forcibly dragged from her home in Pungudutivu near Jaffna, gang-raped and killed by members of the Sri Lankan Navy on 28 December 1999. On 30 December 1999, the President is said to have ordered an immediate investigation into the case.

959. **Gnanasingam Anto Kulasingam**, a youth from Gurunakar in the Jaffna peninsula, was reportedly arrested by soldiers of the Sri Lanka Army on 9 September 1998. His body was handed over to his relatives three days later. In July 1999, a Jaffna district judge reportedly identified torture as the cause of death on the basis of post-mortem reports.

960. **Kalithas Selvam** was reportedly arrested by members of the army on 5 March 1998 and detained under the Prevention of Terrorism Act. He was said to have been later handed over to the Counter Subversive Unit (CSU) of the Sri Lankan Police. He was presented to the Batticaloa High Court on 4 October 1999. During his detention, he was reportedly severely beaten and had a nail and several teeth removed. He was also said to be bearing cigarette burns all over his body and to have accordingly confessed to the charges.

Urgent appeals and replies received

961. On 22 February 2000, the Special Rapporteur sent an urgent appeal on behalf of **Chitravel Manivannan**, who had reportedly been arrested on 10 January 2000 at a lodge in Vavunyia where, after having served a five-year sentence in Kalutara prison, he had recently travelled in order to have a detention order lifted by the court that had issued it. He was severely beaten with batons and had a plastic bag filled with petrol tied over his head until he nearly suffocated. He was reportedly held under a 60-day detention order.

962. On 9 June 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions on behalf of the labourers **Sinnathamby Pradeepan, Poopalaratnam Arulramesh, Gunasekaran Sathiyaseelan** and **Samithamby Eswaran** who had reportedly been arrested on 4 June in Trincomalee district, in the east of the country, and taken to Kantalai police station on suspicion of involvement with the armed opposition group Liberation Tigers of Tamil Eelam (LTTE). Sinnathamby Pradeepan was seen bleeding from his mouth and had open wounds on his shoulders, and Poopalaratnam Arulramesh had difficulty walking. **Ganesh Chandrakanthan**, a labourer, who had reportedly been arrested with the above-named persons, is said to have died in police custody. The police are said to have refused to release the body unless his relatives signed a statement confirming that Ganesh Chandrakanthan was an LTTE member.

963. By letter dated 27 June 2000, the Government responded that Sinnathamby Pradeepan and Poopalaratnam Arulramesh had been detained on 4 June 2000 on grounds of suspected involvement in a bomb attack against two police officers on the same day. During interrogation, they made statements about their involvement in the attack and that of Ganesh Chandrakanthan. Their information led to the recovery of weapons. Ganesh Chandrakanthan was taken to a place in the jungle where weapons, including a hand grenade had been hidden. When he attempted to throw it at the police, they fired at him, setting off the hand grenade. They attempted to hand over the dead body to his family, with the help of the Red Cross Society, but his parents refused to accept the body. It was later buried by the Provincial Secretary's office. The four remaining suspects were held in custody for 60 days under Emergency Regulation 19 (2) and could be visited by close relatives.

964. On 22 June 2000, the Special Rapporteur sent an urgent appeal on behalf of **Amirthalingam Amuthini**, who had reportedly been arrested by police officers of the Security Co-ordinating Unit (SCU) in Vavuniya on 30 May, from her home in Shanthasolai. She was said to have been subsequently taken to the SCU office in Vavuniya town. She had injuries to her right hand, and could not lift her arm. The police are said to have verbally abused her mother for making a complaint to the National Human Rights Commission of Sri Lanka about the case.

Follow-up to previously transmitted communications

965. By letter dated 13 December 2000, the Government responded to all cases transmitted by the Special Rapporteur in November 1999 (E/CN.4/2000/9, paras. 929-973).

966. Concerning Weerge Buddika Weerasinghe, the Government indicated that the Supreme Court (SC) ordered the payment of a sum of Rs. 26,500 as compensation to him. The Criminal Investigation Department (CID) has commenced criminal investigations into this allegation as per SC directive. They are still pending.

967. Concerning Sinnarasa Anthonymala, the Attorney-General's Department has directed the CID to initiate investigations into the allegation. The Inspector General of Police (IGP) has assigned a special team of police officers to conduct the preliminary investigations on the Navy officers suspected of being involved in the incident.

968. Concerning Anura Sampath, who died while in custody at the Moratuwas police station, the CID initiated investigations on the basis of the post mortem report. The investigations and interviews of suspects are still pending.

969. Concerning Sathasivam Sanjeevan, the Government stated that the was injured during his transfer to the Amparai police station on 15 October 1998 when the jeep was attacked by a group of terrorists. He succumbed to his injuries after having been admitted to hospital. The CID, which is conducting an investigation, had not yet been able to locate his family. Further investigations are under way.

970. Concerning Gopalaratnam Thananjevan, the CID had initiated investigations, but the whereabouts of the alleged victim are not known.

971. Concerning Kumaru Selvaratnam, the Government indicated that a fundamental rights case had been filed in the Supreme Court, which had subsequently ordered the State to pay Rs. 100,000 as compensation. The CID has initiated the follow-up investigation and is trying to locate the victim.

972. Concerning Suppy Udayakumar and others, the CID has interviewed the victims and investigations are still pending.

973. Concerning Muththamby Vanithy, the Government indicated that she had been arrested under the Emergency Regulations. An assistant judicial officer had examined her on 30 November 1998 and reported that her injuries had been caused by assault with sticks. She has since left the country. The Government indicated that further investigations will be continued upon contacts being established with the alleged victim.

974. Concerning Periyathamby Subramaniam, the Attorney-General's Department has directed the CID to commence investigation into the allegations.

975. Concerning Kanapathipilla Saskumar, the Government indicated that he was currently detained at the Kalutara prison. Preliminary inquiries concerning his allegations have been completed and files have been submitted to the Attorney-General's Department which has ordered further investigations.

976. Concerning Bathatha Jayatunge Gamage Malsha Kumari, the SC ordered the payment of Rs. 150,000 as compensation. Since the officer-in charge of the Hungama police station has been held responsible for violation of the fundamental rights of the plaintiff, the SC ordered the officer to pay Rs. 50,000 from his personal funds. This accused officer has since been killed in a terrorist attack by the LTTE.

977. Concerning K.A. Sisira Kumaram, the CID has initiated an investigation upon the recommendation of the Attorney-General's Department. Investigations are still pending.

978. Concerning Pradeep Kumar Dharmarantem, the SC ordered the payment of Rs. 60,000 as compensation. Disciplinary inquiries against the accused police officers, who have been indicted, have been initiated. Criminal investigations have also been initiated by the CID.

979. Concerning Velusamy Baskaran and others, the CID has commenced investigations.

980. Concerning Michaelpillai Robert Wellington, who died while in the custody of the army, the Attorney-General's Department has directed the CID to take action.

981. Concerning Vythilingan Thiruchelvan, he had been served notice to appear before CID officers at the Jaffna police station in order to start the investigations into his allegations.

982. Concerningn Kanthaswamy Kalanidhi, the police investigation and her death certificate concluded that she had committed suicide. No complaint had been made by her next of kin.

983. Concerning Wallipuran Suganthi, the Attorney-General's Department has directed that CID trace the alleged victim through the Family Rehabilitation Centre.

984. Concerning Thambirajah Kamaladasan, preliminary investigations have revealed that the alleged victim was not detained at the Kalutara Remand Prison. Action is being taken to trace the victim.

985. Concerning Kanapathypillai Navaratnam, the CID has commenced investigations but it was so far not possible to trace her.

986. Concerning Mahalingam Mahenthiran, as the CID is alleged to have been involved in the incident, the Attorney-General's Department has directed the Inspector General of Police to appoint a team of independent investigators.

987. Concerning Weeraputhiran-Thevy, the CID has commenced investigations, but was so far not able to trace the alleged victim.

988. Concerning Krishanthy Coomaraswamy, the military police and Jaffna police conducted the investigation into her rape and murder by five army men. The Attorney-General indicted the accused, who were subsequently convicted of rape and murder and sentenced to death. An appeal was currently pending.

989. Concerning S. Selvarani, the CID has commenced investigations.

990. Concerning Selvaratnam Ravinsagar, he was arrested by the Trincomalee police while accompanied by a LTTE female suspect who committed suicide. The police have completed the preliminary investigations and sent the relevant files to the Attorney-General's Department.

991. Concerning Kandaswamy Sri Ram, the Government indicated that the alleged victim had gone abroad. The CID has been advised by the Attorney-General to interview the father's victim and to trace the alleged victim.

992. Concerning Selvarajah Thenuka, the Government indicated that she had been interrogated by a woman soldier at a checkpoint on her way to school. It denied the allegations of rape. The Attorney-General has ordered an investigation.

993. Concerning Srilal Priyantha, as the CID is alleged to have been involved in the incident, the Attorney-General's Department has directed the Inspector General of Police to appoint a team of independent investigators.

994. Concerning Pasupathipillai Yogendran, the CID has recorded his statement. The CID was subsequently able to identify the person who had arrested the alleged victim. The Attorney-General has ordered further investigations.

995. Concerning Rasanayakam Uthyakumar, the CID has commended investigations into her death.

996. Concerning Sivam Ashokkumar, the CID has commenced investigations.

997. Concerning Chandramalige Bernard Joseph Silva, who died in the custody of the Kandana police, his family members have been interviewed, the magisterial inquest and the post mortem report have been obtained and investigations are still pending.

998. Concerning T. Sivadoris Ranjani, the SC ordered the payment of Rs. 10,000 as compensation. The CID has commenced criminal investigations, but the victim has not yet been traced.

999. Information pertaining to other cases will be transmitted to the Special Rapporteur once the investigations have been completed.

1000. Finally, the Government indicated that upon ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, it enacted the Convention against Torture Act on 25 November 1994 in order to give domestic effects to the Convention's provisions. The High Court is empowered by the law to prosecute offenders under the Convention and the Supreme Court has also the competence to take on fundamental human rights cases under article 11 of the Constitution. The Court has accordingly dealt with a large number of cases falling within the Special Rapporteur's mandate and has ordered the payment of compensation to victims, while ordering further investigations with a view to prosecuting identified offenders.

Observations

1001. The Special Rapporteur appreciates the detailed information contained in the response of the Government. He considers that the incorporation in domestic law of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is a positive development, as are the Supreme Court awards of compensation and the decision to initiate police investigations into allegations of torture received from various sources, including United Nations bodies. It remains evident that more prosecutions and convictions will be required in order significantly to affect the problem of impunity. In any event, personnel responsible for injury leading to compensation should be removed from office. Steps being taken to reinstate measures for monitoring places of detention will also need to be implemented vigorously to ensure the effective prevention of torture.

Sudan

1002. By letter dated 5 October 2000, the Special Rapporteur advised the Government that he had received information on the following individual cases, to which the Government responded by letter dated 7 December 2000.

1003. **Al Salik Obeid** is reported to have had his right hand and left foot amputated on 23 March 2000. It is reported that he was charged with and convicted of armed robbery. It is alleged that the following people have also been sentenced to amputation of their left hand: **Ismail Khidir, Jad alla Adam Mohamed, Majzoob Mohamed Issa, Nattid Is'hag Mudathir, Jad Al Rab Kuku, Nagar Kafi Goona, Alnour Mohamed Idris, Abd Algayoom Issa, Husham Ahmed, Mohamed Adb Alla Adam, Mohamed Adam Adb Almajeed, Sharief Obied Osman**.

1004. The Government indicated, concerning Sharif Abbas Osman (and not Sharief Ovied Osman), that the sentences of amputation of his right hand from the wrist had been carried out on 24 June 1993 before the Khartoum East Criminal Court; concerning Mohamed Adam Abdel Majeed, the same sentence had been carried out on 25 April 1994 before the same court; concerning Al-Salik Obeid, the sentence of amputation of his right hand and left foot had been carried out on 2 March 2000 before the court of Judge Sodari.

1005. On 14 June 1999, the following 25 students were reportedly sentenced by the Public Order Court, Khartoum: **Abd Alla Abd Elrahman, Hanan Sahal, Umayma Nouri, Sami Abdullah, Sahar Ibrahim Khairy, Rihab Hassan Abdel Majid, Nuha Omar Khalifa, Umayma Mohamed Osman, Ghandi Ghris, Adley Anouar, Mohamed Abdeljabar, Kamil Tahar, Mohamed Nour, Khidir Hussein, Yasir Osman Hassanain, Safwait Jalal, Salim Osman Mohktar, Nazar Abdalla Ibrahim, Mohamed Abdelkarim Yusif, Suhaib Mohktar, Houda Bukhari, Nafesa Mohamed, Nadir Ahmed Rashid, Sas** and **Abdel Nasir Izeldin**. The court reportedly charged the students under article 152 of the Criminal Code and convicted them of the crime of "committing indecent or immoral acts" and "wearing uniform which gave annoyances to public feelings". These students were reportedly arrested on 13 June 1999 while they were having a picnic in a park in Buri town in Khartoum. The picnic was organized by the Nuba Student's Association at Ahliya University to welcome new students and as a farewell to recent graduates. The picnic is said to be an annual event held by the Nuba Student's Association. The organizers of the picnic had reportedly obtained permission from both the University administration and the local council of Buri. Public Order police broke up the picnic, and allegedly beat and arrested the participants. The next day the following students were fined and sentenced to be flogged.

1006. The Government stated that the students had been prosecuted before Khartoum Criminal Court No. 2 on 14 June 1999 and that the first defendant Abdel Nasir, had been sentenced to 40 lashes as a discretionary penalty and the others to 15 lashes, in addition to a fine of 25,000 Sudanese pounds or one month's imprisonment. The Court of Appeal quashed the sentences.

1007. **Muna Mohamed Ahmed**, a member of the Falata tribe, originally from the al-Damazin area and a recent resident of Khartoum, was reportedly sentenced to death for murder. She was allegedly beaten and tortured during her interrogation in order to extract a murder confession.

1008. **Alnour Ahmed Mohamed Ali** was reportedly recruited to work at El Nadi El Arabi, one of the internal security offices. He reportedly refused to be transferred to another unit. He was reportedly arrested by security forces and detained. During his imprisonment he was reportedly tortured and raped. At the beginning of September 1999, he is believed to have been admitted to the police hospital, where a medical examination indicated that he bore the signs of torture. On 14 September 1999, he was discharged from hospital. Emotionally distressed, he reportedly went to the security headquarters with a decorative sword, but was shot and killed by security forces.

1009. The Government confirmed that he was a member of the security forces, but indicated that after some incidents, he was taken to the police hospital on 13 September 1999 where he was diagnosed as suffering from a mental disorder. He was sent back to his family. The Government confirmed the event of 14 September and indicated that he was threatening everyone whom he encountered. Security officers fired shots in the air, one of which wounded him. He died after being taken to hospital. All the legally required measures, including the filing of a report on the incident, were brought to the attention of the prosecutor responsible for offences committed against the State.

1010. **Hassan Abdel Hameed Al Tahir**, a primary schoolteacher from Al Mazmoun, Blue Nile province, was reportedly arrested on 6 December 1999 by four men who showed him their security forces identity cards. They allegedly tied his arms and legs together with rope and then savagely beat him. When local people tried to intervene, the security officers are said to have threatened to shoot them. He was left unconscious in the street and was later treated for two broken legs, a broken arm and rib, and bruising.

1011. The Government indicated that he was the victim of an armed robbery by bandits who were in no way linked to any regular public forces.

1012. **Khamis Adlan Idris**, from Sinja town in Blue Nile province, was reportedly arrested on the morning of 17 July 1998 by a group of military intelligence officers. He was questioned about his Nuba origins and accused of being a spy. After denying the allegations, he was detained in a small cell and beaten and whipped during interrogation. Salt was then rubbed into his wounds. The following day he was interrogated and tortured, initially by the same method but later the security officers are said to have dripped hot plastic onto his skin. His torture allegedly continued for 11 days, during which his wounds became infected and he fell unconscious. He was then seen by a commander who immediately issued orders for him to be transferred to Sinja hospital. This incident was reported to the police at the behest of the medical staff at the hospital.

1013. **Mohamed Tahir Yousif** was reportedly arrested on 4 February 2000 in front of his student hostel. He is then understood to have been taken to the student section of the security office in north Khartoum. He was subsequently detained for two days, during the course of which he was allegedly severely beaten.

1014. The Government indicated that this person was never summoned or detained by the Internal Security forces.

1015. Furthermore, the Special Rapporteur has transmitted information concerning prison conditions in Omdurman women's prison according to which detainees are packed into rooms without sufficient room even to lie down. There are no beds nor bedding, except when pregnant women go into labour, after which they are required to remain in the same cramped conditions

with their newborn babies. They are reportedly given two meals per day consisting of gurassa, a sour bread, and boiled beans, resulting in a high level of malnourishment. There is inadequate water for drinking and washing.

1016. Finally the Government indicated that it would forward information on the remaining cases.

Urgent appeals and replies received

1017. On 28 March 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the situation of human rights in the Sudan, the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Sidahmed Al Hardalou**, a poet and former diplomat, and the following five journalists of the Al Sahafa newspaper: **Kamal Hassan Bakheit, Ahmed Omar Rabie, Abdelgadir Hafiz, Rabie Hamid** and **Anwar Altikaina**. Kamal Hassan Bakheit and Sidahmed Al Hardalou had reportedly been arrested on 22 March 2000 by Sudanese security forces and taken to the security offices in north Khartoum, near Shandi bus station, where they were said to have been confined to their chairs throughout the night. On 23 March 2000, the four remaining journalists were reportedly arrested in connection with the publication of a number of articles in the Al Sahafa newspaper. It is believed that these articles were perceived to be in support of the National Democratic Alliance (NDA). All the above-named persons are said to have been arrested under the National Security Act, which reportedly provides for incommunicado detention and detention without judicial review.

1018. By letter dated 24 April 2000, the Government replied that it had renewed the state of emergency throughout the country in March 1999. However, freedom of expression or other freedoms contained in the 1998 Constitution were not restricted. Furthermore, it was in the process of notifying the United Nations Secretary-General of the state of emergency. The summoning of the persons in question was to conduct an investigation, after which they were immediately released. They were not subjected to any ill-treatment. The National Security Forces Act, 1999 provides for detainees' rights to communicate with their families or their lawyer, and for four levels of judicial review of arrests: by the Director General of the Security Forces, by the attorney concerned, by the judge appointed by the Chief Justice and by the cabinet minister in charge of security organs.

1019. On 3 April 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the situation of human rights in the Sudan on behalf of **Ismail Khidir, Jad Alla Adam Mohamed, Majzoob Mohamed Issa, Nattid Is'hag Mudathir, Jad Al rab Kuku, Nagar Kafi Goona, Alnour Mohamed Idris, Abd Algayoom Issa, Husham Ahmed, Mohamed Abd Alla Adam, Mohamed Adam Abd Almajeed** and **Sharief Obied Osman,** who had reportedly been sentenced to amputation of their left hand under article 174 of the 1991 Criminal Act. In early March 2000, **Al Salik Obeid**, who was said to have been charged under articles 167 and 168 (armed robbery) and to be detained in Kober prison, reportedly had his right hand and left foot amputated. He had been admitted to Buri police hospital on 3 March 2000 for 24 hours and had returned a few days later for a follow-up visit.

1020. On 4 July 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights in the Sudan on behalf of **a large number of students and others** who had reportedly been arrested by the Sudanese army and security forces in various incidents following a seminar entitled "The current crisis in Sudan and future prospects" at the University of Sennar on 18 June 2000. Uniformed soldiers are said to have opened fire on people at the seminar, killing a student named **'Mirghami Mahmoud Al-Norman** and injuring several others, including **Salah Houli** and **Abu Shaiba**. A number of students were reportedly arrested during subsequent clashes with the security forces. On 20 June, hundreds of students are said to have demonstrated in support of the Sennar students at the University of El Nilein and the Sudan University for Science and Technology in central Khartoum, and to have been violently dispersed, in particular with tear gas, by the police. On 24 June, **Khieder Osman Khieder**, a student, was reportedly arrested by Sennar city security forces and detained in a secret location. His whereabouts were said to be unknown. On 25 June, security forces are said to have arrested, detained and reportedly tortured the students **Mohamed Hassan Badri, Own Christopher, Mohamed Suliman Mahmoud, Tarig Awad, Alaa Eldeen Ahmed Osman, Medani Medani Mohamed, Khalid Hassan, Nizar Mohamed Awad, Alobied Hassan** and **Omer Mohamed Toam**. Most of these men are said to have been hospitalized. They are reportedly being tried and charged pursuant to articles 68 (Riots) and 69 (Disturbance of public tranquillity) of the 1991 Criminal Act. On 27 June, the security and police forces arrested **Nabil Kamal Yousif, Tagy Eldeen Ahmed Mohamed Taha, Omer Sid Ahmed** and **Ali Dafalla**, all students, at Omdurman city. Finally, on 28 June students of Juba University in Khartoum were reportedly attacked with sticks and tear gas by the security and police forces. One hundred and twenty-nine students were said to have been arrested and it is believed that they have been tortured. Some were said to be still in detention at the time the urgent appeal was sent.

1021. By letter dated 10 October 2000, the Government responded that only four graduates from the University of Sennar had been summoned for investigation on suspicion of stirring up violence during the demonstrations, and that they had been set free immediately after signing affirmations to keep tranquillity and public peace in the University.

1022. On 17 August 2000, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights in the Sudan on behalf of **Francis Opira Ofwang**, who had reportedly travelled to Sudan around 19 July 2000, at the request of the Sudanese security officials, in order to give a statement regarding the closure of his company. On 22 July 2000, he and another Ugandan man were arrested in Khartoum by armed plainclothes security officers and taken to the security offices in Khartoum where they were alleged to have been badly beaten. They have since been moved to the army headquarters in Khartoum and Francis Opira Ofwang is allegedly in poor health as a result of beatings.

Follow-up to previously transmitted communications

1023. By letter dated 7 December 2000, the Government indicated with respect to cases transmitted by the Special Rapporteur in November 2000 (E/CN.4/2000/9, paras. 976-980) that all these persons had been summoned and interrogated in accordance with article 9 of the National Security Forces Act of 1999 and that none had been tortured.

Observations

1024. The Special Rapporteur appreciates the Government responses, but finds insufficient information in the denial of allegations of torture to displace the concern aroused by the allegations. Cases of corporal punishment involving (sometimes multiple) amputation of limbs are a blatant violation of the prohibition under international law of torture or cruel, inhuman or degrading punishment.

Switzerland

1025. Par une lettre datée du 9 octobre 2000, le Rapporteur spécial a informé le gouvernement qu'il avait reçu des renseignements concernant les cas individuels suivants, auxquels le gouvernement a répondu par une lettre datée du 13 décembre 2000.

1026. Un **collégien** âgé de 17 ans d'origine angolaise aurait fait l'objet de mauvais traitements et d'insultes racistes par trois policiers genevois en novembre 1999. Suspecté d'avoir agressé quelqu'un, il aurait été arrêté dans la rue avec deux de ses amis. Tous les trois auraient été plaqués contre un mur et menottés dans le dos. Le collégien aurait ensuite été jeté à terre et frappé avec une matraque avant d'être emmené dans un véhicule de la police au poste de police de Carouge. Durant le transfert, il aurait continué à être l'objet de coups de matraque et aurait été traité de "sale nègre". Il aurait finalement perdu connaissance. Il aurait été libéré le lendemain matin après avoir comparu devant un juge des mineurs qui lui aurait appris qu'il avait été inculpé de résistance aux forces de l'ordre. Le juge des mineurs l'aurait acquitté en janvier 2000 par manque de preuves. Le Procureur du Canton de Genève aurait demandé l'ouverture d'une enquête concernant les allégations de mauvais traitements. Cette enquête aurait finalement été close par manque de preuves. Le jeune homme en question n'aurait toutefois jamais été interrogé sur les faits en question et aurait fait appel de la décision.

1027. Le gouvernement a indiqué que les policiers qui avaient procédé à l'arrestation du jeune collégien avaient dû recourir à la force pour lui passer les menottes. Dans la voiture, ce jeune homme avait continué à se débattre et s'était blessé contre la vitre du véhicule. Les policiers avaient dû le maîtriser à terre en arrivant au poste de police. Ces derniers contestent formellement l'avoir frappé ou insulté et ont déposé plainte contre lui. Les certificats médicaux établis au poste de police, puis trois jours plus tard, ne font état d'aucun traumatisme et d'aucune lésion. Sa famille avait été informée immédiatement de son arrestation et il avait été libéré quelques heures après son arrestation. Selon l'article 38 de la loi genevoise sur la police (Procédure en cas d'allégations de mauvais traitements), le dossier a été remis au Commissaire à la déontologie pour examen. La plainte générale du collégien a été classée le 11 avril 2000 par le Procureur général. La chambre d'accusation a admis le recours déposé, de sorte que l'affaire est actuellement instruite par un juge d'instruction.

1028. Un jeune garçon âgé de 14 ans d'origine kosovare aurait été mordu par un chien policier en octobre 1999 à Genève. Le chef de la police genevoise aurait reconnu les faits, mais aurait indiqué que les policiers en question n'avaient fait qu'un usage modéré du chien et que les policiers incriminés auraient réfuté les accusations d'agression et d'insultes racistes à l'encontre du jeune garçon. Le dossier aurait été transféré aux autorités administratives et judiciaires compétentes. Par ailleurs, une plainte pour calomnie aurait été déposée par les policiers contre le jeune garçon.

1029. Le gouvernement a indiqué qu'un chien de service avait été lancé à la poursuite du jeune garçon dans le but de l'arrêter. Ce chien l'avait finalement fait tomber et mordu à la jambe droite alors que les autres jeunes gens impliqués dans la destruction d'abris bus et de voitures avaient pris la fuite. Conduit au poste de police, il avait été examiné par un médecin qui avait constaté les lésions causées par les morsures du chien. Son père avait aussitôt été averti de son arrestation et avait quitté le poste de police avec son fils sans formuler aucune réclamation. Les policiers réfutent entièrement les accusations qui ont été formulées par la suite et ont déposé une plainte pour diffamation. Le dossier a été transmis au Commissaire à la déontologie. L'affaire est actuellement aux mains d'un juge d'instruction.

1030. **Rashid Abdul-Ackah**, étudiant en économie suisse d'origine ghanéenne, aurait été maltraité et insulté par la police municipale de Zurich le 23 novembre 1999 alors que des policiers lui demandaient ses papiers d'identité dans la rue. Il aurait été plaqué au sol, menotté et insulté, avant d'être emmené au poste de police d'Urania. Il aurait été jeté en cellule et aurait reçu l'ordre de se déshabiller. Il aurait été ensuite libéré. Il aurait reçu des traitements médicaux à l'hôpital local. Un certificat médical indiquerait la présence d'hématomes sur le bras gauche et à la tête. Il aurait déposé une plainte auprès du Procureur de Zurich.

1031. Le gouvernement a indiqué que les policiers municipaux de la ville de Zurich soupçonnés dans l'affaire ont été interrogés en mai 2000 par un membre de la police cantonale de Zurich et ont été entendus en août par un juge d'instruction. Du point de vue procédural, il appartient au juge d'instruction d'apprécier quand il y a lieu de donner accès au dossier à la personne lésée. Toutefois, ce juge aurait déjà donné partiellement accès au dossier à l'avocat de Rashid Abdul-Achak. Selon le gouvernement, il serait indiqué que ce dernier soit entendu par le juge avant qu'il n'ait connaissance des déclarations faites par les policiers. Le lésé a finalement pu être entendu comme témoin le 29 novembre. D'autres auditions, entre autres de témoins, sont encore prévues pour janvier ou février 2001.

1032. Le gouvernement a finalement indiqué qu'il n'était pas en mesure de se prononcer sur le bien-fondé des allégations tant que des procédures judiciaires étaient en cours devant les tribunaux. Les autorités fédérales suivent néanmoins l'évolution de ces trois dossiers.

Syrian Arab Republic

Urgent appeals and replies received

1033. On 26 May 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Nizar Nayouf**, Editor-in-Chief of the monthly journal "Sawt al-Democratiyya" and Secretary-General of the

Committee for the Defence of Democratic Freedoms in Syria, who was granted the UNESCO Freedom of the Press Award on 3 May 2000 and on behalf of whom the Special Rapporteurs sent an urgent appeal on 26 April 1999, to which the Government responded by letter dated 7 June 1999. Arrested in January 1992 and sentenced by a military court to 10 years' forced labour, he has reportedly been detained in harsh conditions and is suffering from serious injuries allegedly due to torture inflicted on him by the prison authorities. He was reported to be unable to walk without a stick and to be suffering from an eye infection and back pain.

Follow-up to previously transmitted communications

1034. By letter dated 6 June, the Government sent further information on the case of Nizar Nayouf (E/CN.4/2000/9, para.1001). It stated that he was never asked to sign an undertaking to refrain from engaging in any activity. In response to an appeal by UNESCO, he was invited to apply for remission of his sentence to the court which sentenced him, provided he fulfilled civil obligations imposed on him in the judgment against him, which he refused to do.

Thailand

1035. By letter dated 5 October 2000, the Special Rapporteur advised the Government that he had received information according to which overcrowding in prisons is so severe that inmates must sleep in shifts. Because of poor sanitation and overcrowding, skin diseases such as scabies are widespread. HIV infection and tuberculosis are also said to be widespread. The death rate in prisons is therefore believed to be extremely high. The practice of shackling prisoners is reportedly widespread, particularly in Chonburi central prison and Bankwang prison, near Bangkok.

1036. The Special Rapporteur also transmitted information on **Chamlong Khamsunthorn** (alias Ai Keng), aged 13, who was reportedly arrested on 28 January 2000 in Ayuthaya on suspicion of robbery and murder. He was allegedly beaten and given electric shocks by police at the local police station during the following six days. He did not receive any legal representation. On 2 February, he was reportedly taken out of his cell by two police officers and taken to search for the stolen gold in a field in Moo 3, Tambon Tha Mai. The police claimed that he had died after he seized a policeman's gun and attempted to fire the weapon at the policeman, who then shot him dead in self-defence. However, it is alleged that he was taken to the Ayuthaya general hospital directly from the police station, where he had allegedly been shot after he had been tortured to death.

The former Yugoslav Republic of Macedonia

1037. By letter dated 16 August 2000, the Special Rapporteur advised the Government that he had received information falling within his mandate, to which the Government responded by letter dated 11 December 2000.

1038. The Special Rapporteur has received information according to which several persons, mainly ethnic Albanians and some ethnic Turks, were beaten and ill-treated in Gostivar and Tetovo during violent confrontations with the police on 9 July 1997, following a decision by the Government to restrict the use of the flags of national minorities for public purposes.

The demonstrators used firearms, petrol-bombs, bricks and metal bars and injured at least nine police officers. The police allegedly ill-treated a large number of persons who were not using violence, who had no connection with the demonstrations, or who were not offering resistance at the time of ill-treatment. Beatings reportedly occurred in the streets, at the police stations and during house searches. **Milaim Dauti** is said to have died in hospital as a result of head injuries sustained during beating by the police. **Adem Reshepi** was allegedly severely beaten and, as a result, had broken ribs and concussion. His wife, **Latifi**, was reportedly hit on the head by police officers in her home. Their son was allegedly beaten during arrest and detention. **Arsim Sinani**, the President of the youth branch of the Partia Demokratike Shqipatare (Democratic Party of Albanians) (PDSH), was reportedly arrested in Tetovo and taken to Skopje, where he was allegedly severely beaten during several hours of interrogation. At least 200 persons received medical treatment following the 9 July protests, the majority as a consequence of ill-treatment by the police. A parliamentary commission published a report on these events in March 1998 and concluded that the police had overstepped their authority. It also called for an investigation by the Ministry of Internal Affairs. No criminal or disciplinary actions were reported to have been initiated by the end of 1998.

1039. The Government indicated that the intervention was aimed at implementing a June 1997 decision of the Constitutional Court regarding the illegal use of flags of national minorities in front of State institutions. The special forces and special police units of the Ministry of Internal Affairs pulled down the flags and conducted a search on 9 July 1997 which led to the discovery of firearms in the Municipal Councils of Gostivar and Tetovo. Police officers were then attacked by a group of 200 citizens who were using physical force and dangerous devices, such as chemicals and Molotov cocktails. The police responded by using chemicals, rubber truncheons and physical force. A number of police officers were subsequently injured. Seven criminal charges were brought against 17 demonstrators. The Government confirmed the establishment of a parliamentary commission and that some police officers that it could not identify had overstepped their authority. It proposed a number of measures such as education activities for police officers regarding international standards and their practice, and follow-up investigations to find the police officers who had overstepped their authority. The Ministry of Internal Affairs is implementing a number of these measures. Regarding the alleged victims mentioned in the Special Rapporteur's communications, the Government stated that no complaint had been reported to the competent organs.

1040. **Abdula Bilgin**, an ethnic Turk and a self-admitted drug addict, was reportedly arrested on 17 November 1997 and taken to police station at Pit Bazaar where he was shown two baseball bats and a car antenna and asked to choose the object that he wanted to be beaten with. He is reported to have chosen the smaller bat, but to have been beaten with the antenna after having been stripped naked. He was reportedly held for four days, sometimes being moved between the stations in Pit Bazar and Avtokomanda. During those four days, he was not given any food, only water, nor was he provided with a lawyer.

1041. The Government confirmed the arrest and indicated that the allegations have not been fully examined due to deficiencies in the complaint to the Ministry of Internal Affairs.

1042. **Edis Demirov**, a Roma living in Štip, was reportedly arrested in mid-November 1997, a few days after having broken into a local store to steal some food. At the police station, he was allegedly beaten with sticks to make him confess to the burglary. His friend **Erdovan Ajrušev** was also reportedly summoned and beaten until he signed a confession.

1043. The Government indicated that both had criminal files opened against them, but that they had never been detained at Štip police station.

1044. **Arben Isaku**, an ethnic Albanian active in the PDHS, was reportedly arrested in Tetovo by the police on 19 March 1997. He was reportedly hit in the stomach at the time of arrest. He was allegedly taken blindfolded to Skopje, where he was interrogated about the activities of his party and beaten with sticks by two masked men.

1045. The Government indicated that the Ministry of Internal Affairs had no record of this case.

1046. **Shaban Arifi**, an ethnic Albanian, was reportedly arrested in September 1998 and allegedly beaten at the Kumanovo police station before being taken to Skopje, where he was said to have been further beaten during 24 hours of interrogation. He was later released without charge. His son, **Arif**, was reportedly arrested and later charged with possessing arms. He was reportedly transferred from Kumanovo blindfolded in the boot of a car and then beaten during 20 hours of interrogation in a police station in Skopje.

1047. The Government confirmed their arrests and gave details about the charges against them. All the legal procedures were followed.

1048. **Marjan Gjurovsk**, a journalist, was reportedly arrested in September 1998 in Skopje. It is said that the police deliberately banged his head against a car, breaking his teeth. He was then threatened by the police with further violence if he did not sign a confession. He was released the same night after the police claimed that it was a case of mistaken identity.

1049. The Government confirmed his arrest and indicated that he complained at the police station that his tooth was broken. He nevertheless did not submit appropriate medical documentation that would confirm the nature of his injury or the cause of it.

1050. **Samedin Guri** was reportedly arrested on 10 May 2000 in Skopje by five plainclothes police officers, who are said to have taken him to the 1st Police Station, "Beko", to be questioned on his alleged involvement with the Kosovo Liberation Army (KLA) and on the incident in the village of Aračinovo (see below). He was reportedly transferred to the Shutka prison in Skopje on 11 or 12 May. On 13 May, his family was said to have been informed of his arrest. When visited by his mother at the prison, he showed signs of severe beatings. His body, in particular his face, eyes and ears, was reportedly covered with bruises. He was said to have also lost several teeth. He reportedly complained to his mother of having been beaten with iron and wooden sticks by five masked persons and one unmasked police officer at the police station while being interrogated during the first 48 hours after his arrest. On 16 May, his family was informed that he had died. Upon the prison doctor's advice, he had reportedly been transferred to a hospital, where doctors had refused to admit him. A post mortem was ordered, the result of which was said not to have been made public. No investigation is reported to have taken place.

1051. The Government indicated that he was arrested in flagrante delicto of attempting to steal a car. After his detention, his health deteriorated because of a large consumption of medicines given to him by medical doctors of the Skopje prison. On 15 May, the medical personnel decided to transfer him to the Toxicology Clinic at the Skopje Clinic Centre. He was later taken back to the prison ward, where he died. According to the autopsy report, the cause of his death was a methadone overdose. The Government indicated that, being a drug addict, he had brought the methadone with him into the prison.

1052. Finally, the Special Rapporteur transmitted information on incidents of torture following the murders of three police officers in the village of Aračinovo on 11 January 2000. A large-scale operation is said to have been conducted by the Ministry of Internal Affairs (MVR) on 12, 13 and 14 January 2000. Special police wearing masks and military-style uniforms reportedly entered several houses and threw tear gas and/or percussion grenades. No court orders for entry and search or arrest were reported to have been shown. All those searched and detained in connection with this incident were ethnic Albanians. Dozens of people are said to have been tortured or ill-treated, including at least three minors, presumably for the purpose of extracting confessions or information incriminating others. Most of them were reportedly held incommunicado for several days. They were allegedly kept at various police stations (or were under police guard in hospitals where they received treatment, apparently for injuries resulting from torture or ill-treatment) for up to 11 days, apparently without written court decisions on custody in accordance with the law. The victims have not, however, been questioned by an investigating judge or prosecutor about possible criminal charges against police officers involved in the action. The Ombudsman (Naroden pravobranitel) is reported to have initiated his own investigations into the police action after the Aračinovo murders. In a report of 10 February 2000 the Ombudsman is said to have concluded that police officers carrying out the raids in Aračinovo did not respect the laws and regulations governing the work of the police. In particular, the Special Rapporteur transmitted information on the following individual cases.

1053. **Tasim Nebija** was allegedly hit five or six times by police before they handcuffed him and put him in the back of a police van. There he was kept with his hands handcuffed behind his back for more than four hours. Eventually he was reportedly taken to the Avtokomanda police station, from which he was taken with a large black plastic bag placed over his head to an unknown police station and then later to Pit Bazar station, where he was released that night together with his son Jakup (see below). He was allegedly beaten.

1054. **Jakup Nebija** was reportedly arrested by three masked police officers. He was allegedly kicked, punched and hit about the head with a rifle butt at the time of arrest. One blow with a rifle butt is said to have broken his jaw. The police officers then pulled a jacket over his head so that he could not see. He was then handcuffed, put in a police van and taken away. In two police stations, he was allegedly beaten while being interrogated. He was eventually moved and was only able to identify the last station as the Pit Bazar station in central Skopje when he was released from it that night. A medical certificate issued by the hospital is said to have confirmed that his jaw had been broken on the left side. The doctor reportedly characterized his condition as "serious bodily injuries with consequences possibly lasting for six months after the completion of the treatment".

1055. **Ibrahim Jahija** was with his mother and younger brother when police arrived at the family house and threw tear gas or percussion bombs. He was allegedly kicked and hit with rifle butts. He was quickly taken to a police van and then to a police station, where a sack was placed over his head before he was beaten further. Following transfer to another station, which he later discovered to be Pit Bazar, he was allegedly beaten again as he was brought into the station. He was reportedly released later that evening, with apologies that they had "arrested the wrong man". A medical certificate is reported to confirm bruises to the ribs and lower back.

1056. **Rafiz Emini** and six other men, **Rafiz Emini**, **Sadik Emini**, **Nehat Emini**, **Avdulla Jaja**, **Zejnulla Jaja** and **Emrush Jaja**, and two 15-year-old boys were reportedly ordered outside Rafiz Emini's house where they were all staying at gunpoint and made to lie face down on the concrete. They were allegedly kicked and struck with rifle butts while they lay prone. They later obtained medical certificates consistent with their allegations.

1057. **Qenan Rexha** was reportedly arrested without an arrest warrant in relation to this incident on 16 January 2000 by police officers in civilian clothes, but wearing masks, at his house in the Butel district of Skopje. A bag was allegedly placed over his head and he was taken to the police station in Gjorce Petrov, where he was reportedly handcuffed to a radiator squatting on the floor for a day, before being taken to another police station in the village of Mirkovci to the north of Skopje. In both police stations, he was allegedly kicked, punched and beaten with truncheons. In Mirkovci police station, he was reportedly threatened with being killed if he did not sign a confession. After five days' detention at Mirkovci he was released without charge. A medical certificate is said to confirm his allegations.

1058. **Faredin Mustafa** was reportedly arrested in Skopje and held for five days in Gjorce Petrov and then Mirkovci police stations, where, allegedly, a sack was placed over his head and he was beaten and repeatedly questioned.

1059. **Sabri Asani**, reportedly considered as a suspect for the 11 January 2000 murders of three policemen in Aračinovo, was arrested near Mavrovo lake on the night of 17/18 January, by a unit of special police and reportedly taken to Skopje by the police with two other men from Aračinovo, **Bajram Muça** and **Lirim Dinarica** (see below). Sabri Asani was reportedly dead on arrival. An autopsy was performed on his body, the results of which were not released. The certificate issued by the hospital authorizing release of the body for burial reportedly states the cause of death to be a heart problem. The reason of death was reportedly a gunshot wound to his head, which could only have been sustained during the police raid on the Mavrovo house or while he was being taken to Skopje. Straight bruised lacerations, characteristic of heavy blows with a blunt instrument such as a rifle butt, club or heavy baton, were also said to be visible. Elsewhere on his body, on the arms, shins and back, it was reported that there was bruising consistent with kicks and the impact of hard objects or weapons.

1060. **Ramiz** and **Agim Asani**, his brothers, were reportedly detained by the police on 13 January 2000. The next day, during the main police action in Aračinovo, their father, **Brahim Asani**, was also detained. No information was reportedly given to the family about the whereabouts of the three men. On 10 February, a letter from the lawyer was sent to the

investigating magistrate responsible for the case asking that they be given medical examinations by the appropriate specialists in Skopje. Reportedly, no reply was received. These three men, at least one of whom is reportedly suffering pains in his kidneys as a result of beatings by the police, have apparently been attended to only by the prison doctor. On 24 January Basic Court No. 2 in Skopje issued a decision remanding the men in custody.

1061. **Lirim Dinarica** was reportedly held in police stations and apparently not brought before the investigating judge until 24 January 2000 when the order for his detention in custody was issued. He reportedly stated that he had been forced by the police to give those parts of the statement which placed him at the murder scene and in possession of arms. He was held in police stations and for two days in the Military Hospital in Skopje. In the police stations, he was allegedly beaten by four or five police officers while two others dictated what he was to write and recount to the investigating judge. He was allegedly threatened with a hot iron, which was held near his genitals during the questioning.

1062. Concerning the Aračinovo incident, the Government indicated that officials of the Ministry of Internal Affairs searched several houses and detained a number of persons suspected of having participated in the murder of the three police officers. It recognized that during the search of homes, officers caused material damage but indicated that a committee was later set up in order to pay compensation to the victims. The Internal Control Sector of the Ministry of Internal Affairs also initiated an internal investigation into the case. The procedure is still under way. In the meantime, 11 officials of the Skopje Internal Affairs Department were dismissed. A separate investigation was also opened into the case of the death of Sabri Asani. The Government noted that there was evidence from the autopsy report that his death was due to violent causes. The forensic report submitted by the forensic Institute to the investigative judge indicated that he died from a cocaine overdose. The Government further noted that family members are not supposed to receive the findings of the Forensic Institute; only the competent investigative judge does.

1063. Finally, the Government indicated that torture is prohibited by article 11 of the Constitution. It also stated that the Republic of Macedonia is party to all relevant international human rights instruments, which are an integral part of the domestic legal order. Furthermore, article 142 of the Criminal Code provides that "any official who, while performing his duty, applies force, threat or other illegal means, with the intention of extorting a confession or some other statements from the accused, the witness or expert witness or from some other person shall be punished with imprisonment of three months to five years". Paragraph 2 of the same article provides that a qualified form of this criminal offence "shall be punished with imprisonment of at least one year". According to the Criminal Procedure Code and the Law on Internal Affairs, the personality and dignity of the person, in particular while in detention, must be guaranteed.

1064. The Government provided the Special Rapporteur with information concerning the use of firearms, rubber truncheons, handcuffs and other coercive devices. Security officers may use truncheons and physical force for subduing active or passive resistance of the person deprived of liberty when this is necessary to prevent the person's escape, self-infliction of injuries, causing damage to property or physical assault. Active and passive resistance are defined as the

following: active resistance is when the person deprived of liberty resists by using arms and other devices or physical force, while passive resistance is when the person does not answer the call or does not fulfil the legal orders of the security officer. Rubber truncheons are not used in the case of passive resistance, unless there is not other way to subdue such resistance. Article 6 of the Law on Executions of Sanctions provides that "persons against whom sanctions are executed are treated humanely, by respecting their personality and dignity, and by preserving their physical and mental health ...". Similarly, the Government stated that coercive methods and devices may be applied against prisoners only if they are necessary to prevent escape, self-infliction of injuries, causing of damage to property or physical assault.

1065. The Law on Internal Affairs contains a list of disciplinary sanctions in the case of violation of the provisions referred to above. In particular, an official must be suspended temporarily in the case of serious disciplinary offences. Torture victims may file a criminal complaint with a public prosecutor or apply to the national Ombudsman, who may propose the institution of disciplinary proceedings against the official concerned or submit a request to the public prosecutor for instituting criminal proceedings. A complaint may also be filed with the Ministry of Internal Affairs, which has the obligation to inform the complainant of the result of the investigation. Convicted prisoners also enjoy a right to legal remedies through applications or petitions to the director of the institution where they are detained. A procedure for appeal to the Directorate for Execution of Sanctions is also available to convicted prisoners not satisfied with the first decision.

1066. Article 526 of the Criminal Procedure Code provides for compensation. In the case of death, bodily injury or damages to the health, financial compensation is prescribed in the form of instalments covering the expenses of medical treatment, loss of profit due to being incapacitated for work and compensation for lost or decreased possibilities for further promotion. Article 200 of the Law of Obligations provides for non-material damages, like physical or psychological pain, including fear, disfiguration, violation of reputation and honour. In the case of death or severe disability, the court may order compensation for the person's immediate family members for their mental suffering.

1067. Pursuant to article 79 of the Law on Execution of Criminal Sanctions, a State commission for the supervision of penal and correctional institutions, composed of judges, social workers, educators and experts from various ministries, has been established. It has the task of making occasional visits to these institutions with a view to monitoring the application of the laws regulating the conditions of detention. This commission is authorized to have confidential interviews with detainees.

1068. Human rights have been incorporated in the curriculum of the Police Academy. Law enforcement officials of the Ministry of Internal Affairs receive regular training, organized in cooperation with the Council of Europe, the International Committee of the Red Cross and the United Nations, and have to pass examinations on the various laws governing their activities. The Ministry of Internal Affairs has also published, in cooperation with the Council of Europe Information Centre on Human Rights, a manual on "Human rights and the police". The Ministry of Justice has been engaged in similar activities with respect to security officers of penal and correctional institutions.

Observations

1069. The Special Rapporteur appreciates the responses of the Government, especially that concerning measures taken in respect of the Aračinovo incident. He notes that, regardless of whether or not a formal complaint is made, the State is obliged to proceed to a prompt and impartial investigation ex-officio "whenever there is reasonable ground to believe that an act of torture has been committed" (Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, article 12; also Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, article 9). He would also appreciate receiving the forensic reports on the autopsies of Abdula Bilgin and Sabri Arsani. In this connection, he considers that restricting the dissemination of Forensic Institute findings to the competent investigative judge prevents victims or their next-of-kin having access to important knowledge and prevents scrutiny of the quality of the medical examination.

Tunisia

1070. Par une lettre datée du 18 août 2000, le Rapporteur spécial a informé le gouvernement qu'il avait reçu des renseignements sur le système carcéral tunisien. Le gouvernement a répondu à ces allégations par une lettre datée du 30 novembre 2000.

1071. Le problème majeur serait la surpopulation. La prison civile de Tunis, qui aurait été construite pour détenir 1 600 individus, accueillerait entre 4 500 et 6 000 détenus. Certaines cellules du pavillon C 2 mesurant 70 mètres carrés accueilleraient jusqu'à 140 prisonniers. Certains prisonniers dormiraient sous les lits, dans la position dite du camion. La majorité des détenus serait contrainte de dormir à même le sol sur le côté et tête-bêche, dans la position dite du "kods" (le tas). De nombreux prisonniers y feraient des crises d'asphyxie, en particulier à cause de la fumée de cigarettes. Les quelque 1 200 détenus de la prison de Borj er-Roumi au nord de la Tunisie, prévue pour accueillir 300 détenus, seraient soumis à un climat particulièrement humide et rude durant l'hiver. Deux mille prisonniers, dont la plupart purgent des peines de longue durée ou sont condamnés à la perpétuité, seraient détenus à la prison de Nadhour, prévue à l'origine pour accueillir 600 prisonniers. L'article 10 de la loi sur l'organisation des prisons stipulerait cependant que chaque prisonnier a droit à un lit.

1072. Les cellules seraient insalubres et vétustes, mal éclairées et mal aérées. Poux, punaises et cafards pulluleraient. Les cellules ne seraient que rarement nettoyées ou désinfectées. Le système d'évacuation des eaux usagées serait à ciel ouvert dans la zone de promenade de la prison civile de Tunis. La plupart des toilettes de cette prison n'auraient pas de porte et donneraient directement sur les lieux prévus pour le repos et les repas. Les prisonniers auraient droit à une douche d'eau chaude par semaine. Ils n'auraient pas le droit de nettoyer leurs vêtements. Les détenus manqueraient d'eau, en particulier en été, et la principale nourriture consisterait en une soupe de riz ou de couscous servie deux fois par jour. Tout pourrait s'acheter à la cafétéria de la prison pour les prisonniers qui en ont les moyens. Les familles seraient toutefois autorisées à fournir aux détenus des aliments trois fois par semaine (système dit du "couffin"). Un certain nombre de prisonniers, en particulier ceux détenus pour des motifs religieux ou politiques, seraient détenus dans des centres très éloignés de leur lieu d'origine ce

qui les empêcherait, entre autres, d'obtenir ces couffins. Les prisonniers n'auraient accès à aucune activité éducationnelle ou récréative. Ils auraient droit à une promenade de 20 minutes le matin et 15 minutes l'après-midi. Ces promenades s'effectueraient dans des espaces de 50 mètres carrés, par groupes d'une centaine de prisonniers.

1073. Les différentes catégories de détenus seraient toutes mélangées ce qui favoriserait les abus sexuels dont les mineurs seraient les principales victimes. Des prisonniers seraient choisis par l'administration pénitentiaire comme responsables de pavillon (les "caporaux" ou "Kabran Skifa") et disposeraient de larges prérogatives, qu'ils utiliseraient pour humilier et abuser, y compris sexuellement, les autres détenus. À la prison civile de Tunis, une trentaine de condamnés à la peine capitale seraient maintenus dans un isolement absolu. Les visites de la famille proche de dix minutes par semaine se dérouleraient derrière des grilles et conduiraient à des fouilles et des humiliations des prisonniers.

1074. Les maladies de peau comme la gale seraient très répandues. L'encadrement médical serait négligent et refuserait de soigner certaines catégories de prisonniers tels que les soi-disant opposants au gouvernement. Les drogues de substitution seraient largement distribuées par le personnel médical, sous versement d'une certaine somme d'argent. Les prisonniers qui insisteraient pour être soignés seraient transférés dans le pavillon cellulaire.

1075. Les mauvais traitements, passages à tabac et humiliations en prison seraient courants, en particulier dans les prisons de Houareb, près de Kairouan, de Borj er-Roumi, près de Bizerte, et de Grombalia. L'usage de la "falka", un instrument composé d'une corde dont les deux bouts sont accrochés à un bâton et qui sert à ligoter et à serrer en étau les jambes de la victime, serait courant. Ces pratiques seraient en particulier utilisées contre les grévistes de la faim, qui seraient d'abord isolés avant d'être roués de coups pour les forcer à se nourrir. À la prison centrale de Tunis, les cellules 7 et 8, dites les "cellules du directeur", seraient utilisées pour enchaîner les prisonniers à un lit de fer, pieds et poings liés aux quatre angles du lit; le prisonnier serait ainsi laissé sans nourriture et sans être détaché à quelque moment que ce soit pendant une dizaine de jours.

1076. Le gouvernement a indiqué que les services pénitentiaires ne cessent de déployer des efforts en vue de fournir aux détenus les conditions sanitaires et de vie quotidienne nécessaires. La vie carcérale est régie par un décret de novembre 1988. Les détenus sont ventilés selon le sexe, l'âge, la nature de l'infraction et l'état pénal (condamné/prévenu, primaire/récidiviste). Concernant le problème de surpopulation, le gouvernement estime les allégations exagérées. Les autorités envisagent le réaménagement et la rénovation de certains établissements. Concernant les visiteurs, il est précisé que les prisons sont équipées de matériel de fouille électronique, qui s'effectue dans le respect total de la dignité des personnes.

1077. Les lieux de détention sont des établissements de rééducation et réhabilitation destinés à permettre la réinsertion des détenus dans la société. Des programmes d'alphabétisation et de formation professionnelle sont donc en place. Concernant les allégations de mauvais traitements, les fonctionnaires sont soumis à des sanctions disciplinaires et judiciaires en cas de violations de l'intégrité physique des détenus. De telles sanctions ont d'ailleurs été prononcées. Le gouvernement note que le droit à un examen médical est accordé sur simple demande du détenu ou des membres de sa famille. Quant aux possibilités de réparation en faveur de victimes

d'actes de torture, la loi instaure la responsabilité civile de l'État pour les actes des agents publics. Finalement, le gouvernement affirme que les allégations de mauvais traitements perpétrés par des agents de l'ordre sont infondées.

1078. Des mécanismes institutionnels ont été mis en place pour remédier aux situations où les droits des détenus seraient violés. Depuis 1992, le Président du Comité supérieur des droits de l'homme et des libertés fondamentales est habilité à effectuer sans autorisation préalable des visites dans les prisons et centres de détention afin de vérifier le respect des législations relatives à la détention. Il dresse un rapport qui est soumis au Président de la République. De plus, depuis le 31 juillet 2000, l'institution du juge d'exécution des peines a été mise en place. Le Président a décidé le 7 novembre 2000 de transférer la tutelle des établissements pénitentiaires du Ministère de l'intérieur à celui de la justice. Le décret actuellement en vigueur devrait être remplacé par une loi relative aux conditions d'incarcération et au traitement des détenus. Finalement, le Président a annoncé la mise en place de mécanismes appropriés permettant d'indemniser toute personne ayant fait l'objet d'une détention préventive et dont la culpabilité n'a pas été ensuite établie, ainsi que toute personne emprisonnée puis innocentée par la justice.

1079. Le Rapporteur spécial a aussi transmis des renseignements sur les cas individuels suivants.

1080. **Radhia Nasraoui**, avocate, **Chawki Tabib**, Secrétaire général de l'Association tunisienne des jeunes avocats (ATJA), **Mohamed Salah Chatti**, Secrétaire général de l'ATJA, **Jamaleddine Bida**, ancien Secrétaire général du barreau des avocats, **Fadhel Ghedamsi**, membre du Comité de la Ligue tunisienne des droits de l'homme (LTDH), ainsi que **Mourad Belblich** et **Ayachi Hammami**, avocats, auraient tous été frappés par des policiers alors qu'ils tentaient de rendre visite à Taoufik Ben Brik, hospitalisé dans une clinique privée de Tunis le 25 avril 2000. Sa femme, **Azza**, et un docteur, **Khelil Zaouia**, auraient aussi été sujets à des mauvais traitements lors du même incident. Taoufik Ben Brik aurait commencé une grève de la faim le 3 avril 2000 pour protester contre les persécutions dont ferait l'objet sa famille. Son frère, **Jallal Zoughlami**, aurait aussi été frappé alors qu'il essayait de lui rendre visite chez lui le jour suivant. Il aurait été arrêté et conduit au poste de police Al Manar, où il aurait été frappé avec des bâtons. **Ali Ben Salem** aurait aussi été frappé dans les mêmes circonstances. Il aurait été hospitalisé pour une blessure à la colonne vertébrale. **Sihem Ben Sedrine**, éditrice, membre du Conseil national des libertés en Tunisie (CNLT), **Tayeb Noaman**, étudiante, auraient aussi fait l'objet de mauvais traitements lors du même incident. Sihem Ben Sedrine aurait été blessée à un oeil et à une épaule. Le Secrétaire général de Reporters sans frontières (RSF) et l'un de ses collaborateurs, ainsi qu'un certain nombre de journalistes algériens, français et suisses qui seraient venus en signe de solidarité, auraient aussi été frappés.

1081. **Tahar Jelassi** serait décédé le 24 juillet 1999 des suites des violences qu'il aurait subies à la prison de Grombalia où il purgeait une peine de 15 jours de prison pour "ivresse et tapage" et aurait refusé de se soumettre à une fouille corporelle complète. Il aurait été alors tabassé et roué de coups de pied et de poing par quatre gardiens au pavillon cellulaire en présence du directeur. Il aurait été transporté à l'hôpital, où il aurait été déclaré mort.

1082. Le gouvernement a tenu à préciser que le Procureur de la République près le tribunal de première instance de Grombalia a ouvert le 25 juillet 1999 une information judiciaire contre X pour homicide volontaire avec préméditation. L'instruction suit son cours.

1083. **Mehrez Ben Sassi Beddakta, dit Oueld Zanaoui**, et son frère, **Mohamed Ben Sassi Bessakta** seraient tous les deux décédés des suite de brûlures causées par un incendie qu'ils auraient eux-mêmes provoqué dans leur cellule. Ils auraient eu une altercation avec un autre prisonnier à propos de pilules qu'ils avaient l'habitude de prendre comme drogue de substitution. Les gardiens les auraient matraqués. Les deux frères se seraient réfugiés dans leur cellule où ils se seraient barricadés et auraient allumé un feu. Ils auraient ensuite ouvert la porte de leur cellule où les gardiens auraient lancé des bombes à gaz. Les gardiens auraient empêché les deux frères de sortir de leur cellule en les rouant de coups.

Urgent appeals and replies received

1084. Le 24 mai 2000, le Rapporteur spécial a envoyé un appel urgent en faveur de **Abdelmoumen Belanes, Fahem Boukaddous, Taoufik Chaieb, Sadok Chourou, Samir Dillou, Fathi Karraoud, Abdellatif Mekki** et **Fathi al-Ouarghi**, tous actuellement détenus à la prison du "9 Avril" à Tunis. Ils auraient commencé une grève de la faim dans le but de protester contre les conditions dans lesquelles ils sont détenus et l'absence de soins médicaux. Fathi Karraoud aurait été torturé alors qu'il était détenu au secret au Ministère de l'intérieur. Taoufik Chaieb aurait commencé une grève de la faim le 5 mai 2000 pour protester contre le fait qu'il s'est vu refuser des soins dentaires. Abdelmoumen Belanes continuerait de souffrir des suites des tortures qui lui auraient été infligées en 1995 et 1999 et souffrirait de sinusite chronique et de problèmes dermatologiques. Sa grève de la faim aurait aussi pour objet d'obtenir des informations sur la plainte qu'il aurait déposée pour tortures en 1995. Fahem Boukaddous souffrirait d'asthme chronique. Fathi al-Ouarghi aurait commencé une grève de la faim le 15 mai 2000, pour protester contre le fait qu'il s'est vu refuser des soins médicaux. En effet, il aurait perdu un testicule à la suite des tortures qu'il aurait subies lors de sa détention au secret en 1992 et souffrirait maintenant d'inflammation de l'autre testicule. Il se plaindrait aussi de douleurs dorsales. Abdellatif Mekki, qui souffrirait d'un ulcère à l'estomac, Sadok Chourou et Samir Dillou auraient aussi commencé une grève de la faim pour protester contre les conditions dans lesquelles ils seraient détenus depuis le début des années 90.

1085. Par une lettre datée du 30 novembre 2000, le gouvernement a fourni des renseignements sur les condamnations dont faisaient l'objet les personnes mentionnées ci-dessus. Il a par ailleurs indiqué que tous étaient détenus dans des conditions conformes à la législation tunisienne pertinente et avaient fait l'objet de contrôles médicaux. Fethi Karaoud a fait l'objet d'un suivi médical depuis son incarcération à la prison civile de Tunis; Abdellatif Mekki et Sadok Chourou ont fait l'objet d'un suivi médical régulier et les médicaments prescrits leur sont fournis; Taoufik Chaieb et Fethi El Ouerghi ont bénéficié d'une mesure de grâce le 30 août 2000 et Abdelmomem Belanes et Fahem Boukaddous, le 10 juin 2000.

1086. Le 24 août 2000, le Rapporteur spécial a envoyé un appel urgent en faveur de **Taoufik Chaieb**, dont le cas avait été transmis au gouvernement le 24 mai 2000 dans le cadre d'un appel urgent portant sur un certain nombre de prisonniers détenus à la prison du "9 Avril". Son cas aurait également fait l'objet d'un appel urgent de la part du Groupe de travail sur la détention arbitraire en date du 16 août 2000. Son état de santé serait maintenant jugé extrêmement préoccupant et il souffrirait en particulier d'un ulcère et de tachycardie.

1087. Par une lettre datée du 4 septembre 2000, le gouvernement a indiqué que Taoufik Chaieb avait bénéficié d'une grâce présidentielle pour des raisons humanitaires et qu'il avait été libéré le 30 août 2000.

Observations

1088. The Special Rapporteur appreciates the cooperation of the Government evidenced by the responses. The creation this year of the function of juge d'exécution des peines and the transfer of the prison system to the authority of the Ministry of Justice are positive developments that could eventually have an impact on abuses by prison personnel. The intensity of the overcrowding cannot but create conditions that are degrading by any standard and conducive to tensions that are bound to provoke confrontation between the detainees and the prison authorities.

1089. The Special Rapporteur also welcomes the measures of clemency granted to certain persons who had allegedly been tortured and ill-treated. Such measures are, of course, no substitute for effective investigation and institution of criminal and disciplinary proceedings against suspected perpetrators of such treatment, as well as the payment of compensation to victims. That torture and ill-treatment of persons held by law enforcement officials are prevalent in Tunisia seems evident to the Special Rapporteur in the light of consistent information reaching him over the years. That brutal treatment of foreign human rights workers can occur leaves little doubt as to what may happen to persons with no such influence.

1090. The above observations are, of course, made without the benefit of first-hand familiarity with the situation. This is because the Special Rapporteur's request in 1998 to visit the country has met with no response, as have his requests for contacts with the Permanent Mission to discuss the possibility.

Turkey

1091. By letter dated 15 November 2000, the Special Rapporteur advised the Government that he had received information on the following incidents in prisons where excessive use of force by law enforcement officials is believed to have been used.

1092. On 26 September 1999, 10 prisoners are said to have died and dozens to have been injured in a violent clash with guards and soldiers in Ankara Central Closed Prison, Ulucanlar. The following prisoners died: **Habib Gül, Ertan Özkan, Nihat Konak, Ümit Altintas, Halil Türker, Mahir Ünsal, Sakir Dönmez, Abuzer Cat, Nihat Slmaz, Ahmet Devran, Zafer Karabiyik** and **Önder Gencaslan**; the following prisoners were injured: **Yasar Ylidiz, Fatma Yildiz, Savas Kör, Ertan Özkan, Zafer Kirbiyik, Murar Özcelik, Nihat Knoak, Behzat Oguz, Erhan Göktas, Veysel Eroglu, Haydar Baran, Ercan Akpinar, Mustafa Borsuk, Emine Esin, Serife Bodur, Nevzat Ciftas, Ismail Balci,**

Mehmet Keskinkanat, Enver Yanik, Hasan Coban, Erdal Gökbiyik, Cafer Tayyar Bektas, Özgür Saltik, Halil Dogan, Resul Ayaz, Özgür Soylu and **Feyzullah Koca.** The circumstances of the deaths were reportedly disputed and lawyers and relatives of the dead were excluded from the autopsy. In June 2000, the Turkish Parliamentary Human Rights Commission reportedly gave a press statement on its report on the incident and concluded that excessive force had been used.

1093. On 5 July 1999, a mutiny in Burdur prison in which prisoners alleged to be held on political grounds are said to have barricaded themselves in the wards was forcibly ended by the security forces. The security forces allegedly threw smoke bombs, tear gas and nerve gas into the wards and started to break down the walls with bulldozers. The security forces reportedly attacked prisoners with iron poles, truncheons, roof tiles and stones, dragging unconscious prisoners out of the wards with long-handled hooks. They reportedly sexually assaulted unconscious women prisoners. More than 30 lawyers representing the prisoners, from the Bar Associations of Izmir, Istanbul, Ankara and Antalya, came to Burdur on 5 July to try to meet their clients and make sure they were safe. They were said to have been obstructed by excuses and delays by both senior and junior officials. On 8 July, they met some prisoners who allegedly showed signs of severe injuries on the visible parts of their bodies, and had difficulty breathing and speaking.

1094. The Special Rapporteur transmitted information on the following individual cases:

1095. **A woman** whose name is known to the Special Rapporteur and the Government was reportedly arrested by three armed plain-clothes officers from the Anti-Terror Branch, in Adana on 19 November 1999. They reportedly asked about the whereabouts of her daughter, an alleged member of the Kurdistan Workers' Party (PKK). After an attempt to strangle her, she was blindfolded and raped with a truncheon. She was later found unconscious and bleeding. On 7 December 1999 she is believed to have lodged an official complaint against the police officers. Police officers are said to have raided her house several times since then, beaten her and threatened her with death. The Adana State Prosecutor has issued a decision not to prosecute anyone over her complaint. Her lawyers reportedly appealed on 12 June 2000 against that decision. On 24 June a group of men wearing snow masks allegedly came to her house and tried to force her to sign a statement alleging that the persons responsible for the rape were from the PKK. When she refused, they allegedly beat her and forced their guns against her neck.

1096. **Ramazan Tekin**, Deputy Mayor of Diyarbakır and a leading politician from the pro-Kurdish People's Democracy Party (HADEP), was reportedly detained on 21 January 2000 by Gendarmerie officers for 10 days. He was allegedly beaten, suspended by the arms and tortured with electric shocks. On 30 January he was remanded in Diyarbakır E-type prison. Doctors from the Forensic Institute who examined him reportedly confirmed that his ribs were broken and his kidneys damaged. His lawyer is said to have filed a formal complaint.

1097. The Special Rapporteur has received further information on **Feridun Çelik**, Mayor of Diyarbakır, and **Feyzullah Karaaslan**, Mayor of Bingöl, on behalf of whom the Special Rapporteur sent an urgent appeal on 23 February 2000 (see below) after their arrest on 19 and 20 February. During their detention, they were being made to sit blindfolded in cold rooms, deprived of sleep, kicked, slapped and verbally abused and had their hair pulled.

The Mayor of Siirt, **Selim Özalp**, was allegedly kept blindfolded, being subjected to a form of strangulation where the hollow of his throat was repeatedly pressed by the thumb of his assailant, having strong pressure applied to his underarms by the hands of his assailant, having his testicles squeezed, his hands cuffed behind his back for eight hours at a time and being beaten and threatened.

1098. **Fahrettin Özdemir**, on behalf of whom the Special Rapporteur sent an urgent appeal on 11 April 2000 (see below), was eventually indicted in the main Hizbullah trial in which he and 14 others were charged with violent acts and some 150 murders and in which the death sentence was sought. On 10 July 2000, in the first trial session, he reportedly stated that he had been tortured at Police Headquarters in Gaziantep. Torture methods reportedly included electric shocks, being suspended by the arms, squeezing of the testicles and beating.

1099. **Cevat Soysal**, who had reportedly been granted political asylum in Germany in 1995, was said to have been abducted from Moldova to Turkey by the Turkish Secret Service (MIT) on 13 July 1999. He was reportedly interrogated for a total of 11 days in incommunicado detention, first at the headquarters of MIT in Ankara from 13 to 21 July, and then at Ankara Police Headquarters Anti-Terror Branch from 21 to 23 July. On 23 July, he was brought before a judge and committed to Ankara Central Closed Prison. He was allegedly tortured while in the custody of MIT. The methods of torture included electro-shocks, being hung by the arms, being forced to lie naked on ice, being sprayed with pressurized water and not being allowed to sleep. He was reportedly made to stand in a tiny cell in which it was impossible to sit and to have had water dripped onto his head, a method known as "Chinese torture". He was twice hospitalized. His lawyer is said to have noted marks of torture on 26 July. The allegations appeared to be further supported by a photograph taken on 21 July by a reporter from the Turkish daily newspaper Star who saw Cevat Soysal being brought by police officers for a medical examination at the Forensic Institute in Ankara. In November 1999, the prosecutor decided not to open a trial against the alleged torturers. The Office of the Prime Minister who is said to be responsible for MIT, had informed him that a prosecution would not be appropriate. Cevat Soysal and his lawyers are reported to have appealed against the prosecutor's decision. The trial of Cevat Soysal is reported to have started on 16 September 2000 at the Ankara State Security Court.

1100. **Muzaffer Çınar**, a candidate from the HADEP list for the office of mayor of Baykan in the province of Siirt, was reportedly apprehended in Baykan and detained in Siirt police headquarters between 21 and 29 July 1999. He was allegedly beaten in detention, his testicles were squeezed with a rope, he was given electric shocks, suspended on a hanger, forced to lie on ice, hosed with cold water at high pressure and subjected to sexual assaults. He reported his torture to the Human Rights Association (IHD). Medical reports documenting numerous areas of trauma, including to the head, limbs and genitals, appear to support his allegations. In August 1999, he had to be hospitalized.

1101. **Süleyman Yeter**, a trade unionist and journalist, was reportedly arrested on 5 March 1999. He, Bayram Namaz and three other people were taken from the offices of the newspaper Dayanisma and put in neighbouring cells at the Anti-Terror Branch of Istanbul Police Headquarters. He was allegedly stripped naked, severely beaten, sprayed with cold water and forced to lie on ice. On 7 March, the IHD and Süleyman Yeter's trade union

LIMTERIs were told he had died in custody, and this was confirmed by the Fatih State Prosecutor. On 8 March, his lawyers reportedly saw the body at the Forensic Institute morgue and saw marks of torture on his body. His death is said to be especially suspicious since he had just been invited to identify police officers who were on trial for having tortured him and 14 other detainees in early 1997.

1102. **Alpaslan Yelden** was reportedly arrested in Izmir on criminal charges and interrogated on 2 and 3 July 1999. After some 24 hours his physical condition is said to have deteriorated so much that he was brought to a hospital in a coma. He died on 14 July 1999. The autopsy reportedly indicates that he died of trauma caused by blows to his head and torture. His father filed a complaint and the Bar Association and the Human Rights Association in Izmir took up the case. On 30 September 1999, the State Prosecutor reportedly issued an indictment against 10 police officers charged with causing death by torture. The trial against them was opened on 9 December. Three of police officers had been suspended from duty on 2 August 1999. The Special Rapporteur requested the Government to inform him about the outcome of the trial.

1103. Finally, the Special Rapporteur transmitted information according to which 85 members or sympathizers of the Science and Research Foundation (SRF) were arrested on 12 November 1999 and tortured, blindfolded, while in detention. They are said to have been held during one week and to have been denied access to their families and lawyers. They are believed to have been forced to sign confessions under duress. All but four are reported to have been released. In particular, the Special Rapporteur transmitted information on the following individual cases.

1104. **Tijen Oztemir** was reportedly detained at the Directorate of Organized Crimes Branch in Istanbul. She was allegedly interrogated and slapped on the face each time she could not respond. She was reported to have been threatened to be electro-shocked and sexually abused.

1105. **Kemal Gul** was reportedly arrested at a friend's house at Silivri Fenerkoy in Istanbul. His friends, **Sedat Altan** and **Ugur Ormen** were also said to have been arrested at the same time. Kemal Gul was allegedly caught by the hair and forced to lie down. He was then reportedly handcuffed before being dragged to the swimming pool, where his head was hit on the floor. He was then reportedly taken to the Security Directorate in Istanbul, where he was detained, blindfolded, for seven days. He was allegedly forced to stand on one foot for long hours and was forced to listen to the screams of people being tortured, as well as to witness some torture sessions. He was said to have been subjected to the "Palestinian hanging", i.e., hands handcuffed beind the back and tied to the ceiling, and to beatings, in particular on his genitals. His testicles were also allegedly squeezed. He was also allegedly threatened with rape. Over three days, he was allegedly subjected to electro-shocks to various parts of his body and deprived of sleep and food for the entire duration of his detention. Every morning, he was said to have been seen by a doctor, but could not complain to him because of the threats he was subjected to. On the sixth day of his detention, he was reportedly forced to sign confessions. He reportedly described to a prosecutor the torture he was allegedly subjected to. But the prosecutor is believed not to have taken into account his allegations of torture and to have relied exclusively on confessions. He was then released pending trial.

1106. **Alev Ulasoglu** was reportedly taken to the Directorate of Organized Crimes Branch in Istanbul. She was allegedly deprived of sleep, being forced to stand looking at a wall during long hours. After the fourth day, she was reportedly interrogated and slapped on the face on several occasions. Blindfolded, she was forced to sign a statement. Further, it is reported that her mother was forced to write a complaint against SRF members in order to obtain access to her in the police station.

1107. **Emre Nil** was reportedly handcuffed to a pipe during most of his detention and was deprived of sleep. Water was said to have been poured on him each time he was falling asleep. He was allegedly beaten, electro-shocked, insulted and humiliated. His mother was also asked to complain against SRF members in order to obtain access to him. It is believed that his trial started on 7 April 2000.

1108. **Emre Çalıkoğlu** was reportedly taken to the Directorate of Organized Crimes Branch in Istanbul. He was allegedly beaten, deprived of sleep, subjected to electro-shocks and forced to take cold baths. He was reportedly stripped naked, humiliated, and his testicles were said to have been squeezed. According to the information received, he also received electro-shocks, in particular on his testicles. He was reportedly forced to sign, blindfolded, a confession. He was said to have been taken to several hospitals during his detention, but was never left alone with any doctor. It is believed that his trial started on 7 April 2000.

1109. **Altug Berker**, the former chairman of the SRF, was reportedly taken to the Directorate of Organized Crimes Branch in Istanbul. He was allegedly deprived of sleep and was handcuffed to a pipe on a chilly damp floor, tightly blindfolded. Each time he was falling asleep, he was said to have been taken to a special room where he was allegedly subjected to various forms of torture, including electro-shocks and beatings, in particular on the soles of the feet. He was allegedly beaten with sticks and truncheons which had been covered with a towel. He was forced to adopt humiliating positions and was insulted and threatened. He was reportedly only interrogated after six days. He was eventually released after one week, but re-arrested on 13 February 2000. He was reportedly taken to the Directorate of Organized Crimes Branch in Istanbul, where it is believed he was forced to sign a confession under duress. He was eventually released on bail on 16 February. It is believed that his trial started on 6 April 2000.

1110. **Timur Ayan** was reportedly taken to the Directorate of Organized Crimes Branch in Istanbul, where he is said to have been held for five days. He was kept blindfolded in a bare concrete cell handcuffed to a pipe, without being allowed to sleep or to eat. At the end of each morning, he is believed to have been tortured while being interrogated. He was allegedly subjected to electro-shocks and beatings. High pressurized water was also reportedly applied on him. He was allegedly forced to sign a confession. He is held at the Bayrampasa prison.

1111. **Ferat Terkoglu** was reportedly taken into custody and was forced to sit, blindfolded, in front of a toilet on a chilly damp stone floor, leaning against dirty trash bags, with his hands cuffed to the iron bars of a heating unit. He was allegedly deprived of sleep and subjected to electro-shocks, in particular on the genitals. Cold pressurized water was reportedly poured on him and he was beaten with sticks around which a towel had been wrapped. He is believed to be currently in detention.

1112. **Kartal Is** was reportedly kicked at the time of arrest and was taken into custody. He was allegedly stripped naked and was forced to kneel in an uncomfortable position while being beaten on the head and the back. He was reportedly forced to witness the torture of some of his friends and was threatened with electro-shocks and rape.

1113. By letter dated 8 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1999 regarding which no reply had been received.

Urgent appeals and replies received

1114. On 14 January 2000, the Special Rapporteur sent an urgent appeal on behalf of the following members of the Izmir branch of the Human Rights Foundation of Turkey (HRFT) who were said to be the subject of legal proceedings solely because of their activities in favour of torture victims.

1115. **Günseli Kaya** from the HRFT Izmir Treatment and Rehabilitation Centre and **Dr. Alp Ayan,** a psychiatrist at this centre and an active member of the Izmir Medical Chamber, were among 68 individuals who were reportedly detained during the first week of October 1999 because they wanted to attend the funeral of one of the 10 detainees killed a few days before at Ulucanlar prison. **Dr. H. Zeki Uzun** is the object of legal proceedings allegedly because he provided medical treatment to his patients, mainly torture victims. **Prof. Dr. Veli Lök**, a well-known expert on torture, is said to be the subject of legal proceedings for having expressed his worries about the above-mentioned cases.

1116. On 3 February 2000, the Special Rapporteur sent an urgent appeal on behalf of **Mehmet Maksut**, who had reportedly been arrested at his home in Diyarbakır on 26 January 2000 by men in civilian clothes bearing firearms who claimed to be police officers. When his family contacted the Diyarbakır State Prosecutor on 31 January, they were told that the prosecutor's office was not in possession of any information regarding his detention. He had previously been arrested by the police on 16 November 1998 and released after nine days, having reportedly been subjected to torture during his detention.

1117. By letter dated 15 May 2000, the Government responded that Mehmet Maksut had been detained on 27 January 2000, that his wife had been informed of his detention and had signed his detention record and that he was registered in the detention registration book. His detention was renewed twice up until 3 February 2000, on which day he was taken to the State Security Court No. 1 and placed in Diyarbakır E-type prison. He underwent a medical check-up on 27 January and before being transferred to court. None of the medical reports indicate any ill-treatment.

1118. On 23 February 2000, the Special Rapporteur sent an urgent appeal on behalf of **Feridun Çelik**, a lawyer and Mayor of Diarbakir, **Selim Özalp**, Mayor of Siirt, **Feyzullah Karaaslan**, Mayor of Bingöl, and **Ramazan Tekin**, Deputy Mayor of Diarbakir, all members of the People's Democracy Party (HADEP). Feridun Çelik had reportedly been arrested by Anti-Terror Branch police on 19 February 2000 and taken to Diarbakir Gendarmerie for interrogation. Selim Özalp had reportedly been arrested by Security Police and Gendarmerie officers in Siirt town hall on 19 February 2000 and immediately taken to Diarbakır Gendarmerie

for interrogation. After two days of alleged severe torture, he had to be taken to Diarbakir State Hospital for treatment. His lawyer is reported to have issued a formal complaint against the security officials responsible. He was believed to have been taken back to Diarbakir Gendarmerie. Feyzullah Karaaslan had reportedly been detained on 20 February 2000 at Diarbakir airport by security police officers and taken to Diarbakir Gendarmerie for interrogation. Ramazan Tekin had reportedly been detained on 21 January 2000 by Gendarmerie officers. During the 10 days he was held at Diarbakir Gendarmerie, he was allegedly beaten and tortured with electric shocks. On 30 January, Ramazan Tekin was reportedly remanded in custody by Diarbakir State Security Court. Doctors from the Forensic Institute who examined him are said to have confirmed that his ribs were broken and his kidneys damaged. His lawyer is believed to have filed a formal complaint. He was said to be in Diarbakir E-type prison.

1119. By letter dated 6 March 2000, the Government responded that Feridun Çelik, Selim Özalp and Feyzullah Karaaslan were detained due to their suspected relationship with the PKK. They were released by the Diyarbakır State Security Court on the ground that they were unlikely to tamper with evidence, but they would have to stand trial on charges of aiding and abetting separatist terrorists. Their mayorships were reinstated on 28 February 2000. In a letter dated 31 March 2000, the Government further stated that copies of the medical reports of Feridun Çelik, Selim Özalp, Feyzullah Karaaslan and Ramazan Tekin disclosed that they had not been subjected to any ill-treatment.

1120. On 9 March 2000, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Serkan Nişancı**, **Ufuk Tambaş**, **Hüsuyn Yalşinkaya** and four women, **Secim Demir**, **Hüsnyie Acer**, **Neliha Yıldız** and **Nürsel Turunç**. Serkan Nişancı and Secim Demir are reportedly detained at the Anti-Terror Branch of the Istanbul Police Headquarters. They are believed not to have been charged with any criminal offence and are said to be held in incommunicado detention. The others are reportedly detained at the Public Order Branch of the Istanbul Police Headquarters. All were allegedly arrested on 7 March 2000 after participating in a commemoration ceremony said to have been organized on behalf of Süleyman Yeter, a trade unionist, who allegedly died in police custody on 7 March 1999. At the commemoration ceremony, around 40 people were reportedly beaten with truncheons and about 100 persons were arrested, the majority of whom are said to have been released on the morning of 9 March 2000.

1121. By letter dated 30 May 2000, the Government responded that Serkan Nisanci, Ufuk Tambas, Hüseyin Yalçinkaya, Selim Demir, Hüsnyie Acer, Meliha Yildiz and Nursel Turunç and another 143 people had attempted to take part in a procession that had been prohibited in accordance with national law. After a warning, the group attempted to break the security barricade and attacked the security forces, whereupon 130 persons, including the above-named, were detained. Ufuk Tambas, Hüseyin Yalçinkaya, Hüsnyie Acer, Meliha Yildiz and Nursel Turunç were released by the court on 9 March (after arrest warrants had been issued). Serkan Nisanci and Selim Demir were released on 10 March and a court case on the grounds of allegations of active membership of the MLKP was still continuing in the Istanbul State Security Court No. 2. Medical reports revealed no ill-treatment and no official complaint of such treatment had been received by the relevant authorities.

1122. On 13 March 2000, the Special Rapporteur sent an urgent appeal on behalf of **Nazife Kaya,** a member of the health workers trade union, Sağlık Emekçiler Sendikası, and three other persons, who had allegedly been detained on 9 March 2000. She was currently involved in legal proceedings against police officers who she alleged had tortured her when previously detained. They were reportedly being detained in the Anti-Terror Branch of the Police Headquarters in Istanbul.

1123. By the same urgent appeal, the Special Rapporteur intervened on behalf of **Ali Gülmez**, **Ganimet Bozlu**, **Erol Gültekin** and his wife **Ismet Gültekin**, **Namik Yüksel** and his wife **Hayriye Yüksel**, who had reportedly been arrested in Istanbul on 8 March 2000. The Anti-Terror Branch at the Police Headquarters had initially denied their detention. On 10 March 2000, the prosecutor reportedly informed their lawyers that they were being detained. Ali Gülmez and two others were said to be detained at the police headquarters in Tokat in northern Turkey, the remaining persons, at the Anti-Terror Branch of Police Headquarters in Istanbul.

1124. By letter dated 2 June 2000, the Government responded that the above-named and Ibrahim Halil Yükçeken were detained during an investigation of TKP/ML-TIKKO; their houses and offices were legally searched and some weapons were found. Ali Gültekin was transferred to the security authorities in Tokat. He went on hunger strike. Ismet Gültekin and Ibrahim Halil Yükçeken were conditionally released to appear in court on 15 March 2000. Ganimet Bozlu, Namik Yüksel and Erol Gültekin were arrested by the court, and the others were released. Medical reports do not reveal any ill-treatment of the above-named persons. Concerning Nazife Kaya, the Government stated that she had been detained on 8 March 2000 for carrying false identity documents. After an investigation by the security forces, three members of the TIKB were apprehended with some ammunition. During her interrogation she refused food and drink and attacked the security forces twice. She is pursuing an appeal regarding the acquittal by the Istanbul Criminal Court No. 5 for Major Cases of police officers alleged by her to have tortured her during her detention in 1994. She had also been detained on 15 May 1996 on suspicion of having attempted to release a member of the TIKP during his transfer to another prison, and was released a day later. Medical reports had shown that she had not been subjected to any ill-treatment.

1125. On 11 April 2000, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Fahrettin Özdemir**, who allegedly went missing on 19 February 2000 and appeared to be held at the Anti-Terror Branch of Police Headquarters in Diyarbakır. On 28 February, he was reportedly taken to Diyarbakır State Security Court. Neither his relatives nor his lawyer were allowed to see him. The next day, he was registered in Diyarbakır E-type prison. On 23 March only, his lawyer had access to him for the first time since his arrest. His lawyer was reportedly subsequently threatened by the head of the Anti-Terror Branch and told not to interfere further (see also above).

1126. By letter dated 15 May 2000, the Government responded that Fahrettin Özdemir had been detained at the Directorate of Security at Gaziantep on 25 February 2000 and held there for one week. He confessed that he was an active member of Hizbullah. On 2 March, he was transferred to Diyarbakır, where his detention was further prolonged by three days, after which

he was arrested by the relevant court in Diyarbakır. His relatives were informed of his detention, and his lawyer and relatives visited him several times. He underwent medical check-ups six times. The medical reports reveal no ill-treatment. No official complaint has been received by the relevant authorities regarding any ill-treatment of Fahrettin Özdemir.

1127. On 7 July 2000, the Special Rapporteur sent an urgent appeal on behalf of **Kadir Agababa, Asiye Güden (f), Neriman Saygi (f), Osman Ozarslan, Birsen Dumanli (f), Yusuf Demir, Ali Aycan, Baris Gönülsen, Özgür Sahin, Mehmet Leylek, Kazim Ceylan, Nuray Özçelik (f), Hulya Turunç (f), Ahmet Gün, Tuncay Yildirim and other prisoners in Burdur prison**. They were reportedly involved in a mutiny which was put down on 5 July 2000. They had reportedly barricaded themselves into Burdur prison in protest at being beaten and ill-treated on their way to court hearings. A large force of the police and gendarmerie is believed to have stormed the prison, armed with truncheons, sticks and tear gas. Twenty-one prisoners were allegedly injured, of whom the 16 named above were hospitalized and later discharged. **Veli Saçilik** is said to be in a stable condition in Sakarya hospital. Asyie Güden was reportedly brought to Burdur courthouse to give a statement on 6 July and was allegedly severely beaten by police officers and gendarmes in the corridors of the courthouse in front of 11 lawyers from the Izmir branch of the Human Rights Association and the Istanbul, Izmir and Ankara Bar Associations. Lawyers are said to have been excluded from the courtroom while their clients were giving statements. Prisoners involved in the mutiny are now said to be held in solitary confinement.

1128. On 12 September 2000, the Special Rapporteur sent an urgent appeal on behalf of **Eghbal Tabei**, an Iranian of Kurdish descent, who was believed to be facing imminent and forcible deportation to Iran. He was allegedly dismissed from his post as a teacher by the authorities on account of his involvement in a Kurdish political movement. He had fled Iran with his wife and two children after his brother, Parviz, was reportedly executed by the Iranian authorities.

1129. On 27 September 2000, the Special Rapporteur sent an urgent appeal on behalf of 11 board members of the Sirnak People's Democracy Party (HADEP), **Resul Saddak, Rüstem Bayar, Mehmet Çakar, Nihat Usal, Cengiz Balik, A. Rezzak Inan, Nezir Ayan, Yakup Kur, M. Temel Kurar, Izzet Belge** and **Tahir Kutlu**, who had reportedly been detained at the Düzova village gendarmerie checkpoint on the road between Idil and Cizre in south-east Turkey on 23 September as they were returning home to Sirnak from a party congress in Batman. They are said to be held in Sirnak Provincial Gendarmerie Command. Other HADEP party officials in a small town near Sirnak have allegedly recently been detained briefly and threatened that, if they did not stop their party activities, they would be detained and subjected to other forms of pressure.

1130. By letter dated 6 November 2000, the Government replied that the above-mentioned persons had been detained following the discovery of weapons during a security search on 23 September. Erdal Güler was detained on 27 September on the charges of aiding and abetting the PKK. Before the end of their detention period, Yakup Uyar was released due to lack of evidence and the remaining 11 persons were charged on 1 October 2000 with aiding and

abetting the PKK and violating Law No. 6136. They were imprisoned in Sirnak and transferred to Mardin prison on 2 October. They were informed of their rights at the time of their detention. During the detention, they underwent medical check-ups at least every two days and no medical reports indicate any ill-treatment.

1131. On 29 September 2000, the Special Rapporteur sent an urgent appeal on behalf of **Mehmet Gün**, a clerical worker, who had reportedly been arrested by four gendarmes in his house in the village of Yolalti in Diyarbakır province on 15 September 2000, and was said to be held at Diyarbakır Gendarmerie Command. His family is said to have made written applications to Diyarbakır State Security Court on 18 and 19 September in order to find out where he was detained, but were told that no one by that name was in custody. On 20 September, his family was reportedly told about his whereabouts.

1132. By letter dated 31 October 2000, the Government replied that Mehmet Gün had been detained by the Diyarbakır Gendarmerie Command on 15 September 2000 on charges of being an active member of the PKK. His father and uncle were informed of his detention. For purposes of investigation, his detention period was prolonged by eight days by the courts as of 17 September 2000. Following his detention, he was arrested by the relevant court on 20 September. He underwent medical check-ups on 15, 19 and 20 September 2000 and no medical reports indicate any ill-treatment.

1133. On 17 October 2000, the Special Rapporteur sent an urgent appeal on behalf of **Sehmuz Temel**, a Kurdish man, who had reportedly been tortured previously while detained. He was reportedly arrested on 12 October 2000 by plainclothes police officers in the Fikirtepe neighbourhood of Istanbul. On 13 October, his family learned that he was being held at Istanbul Police Headquarters. He had been imprisoned until 1998, convicted of aiding and abetting the armed opposition group, the PKK.

1134. By letter dated 6 December 2000, the Government replied that Şehmuz Temel, Eyatullah Esen and Süleyman Salman had been taken into custody on 13 October 2000, when the house they were staying at had been searched in the context of operations against the PKK. They were released the next day, when the investigation revealed that they were not wanted by the police and that they had not committed any crimes. None of the medical reports indicate any ill-treatment.

1135. By letter dated 25 October 2000, the Government responded, concerning Sehmuz Temel, that the term "Kurdish" described an ethnic origin and that Turkish citizenship, encompassing all Turkish citizens whatever their ethnic roots, was the fundamental principle upon which the Turkish State was founded.

1136. On 18 October 2000, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Fesih Güler** and **Hatice Güler**, who had reportedly been arrested by the police in Diarbakir on 6 September 2000 and transferred to the Anti-Terror Branch at the Police Headquarters. Fesih Güler is reportedly accused of being a member of the armed group Hizbullah. A judge is said to have ordered his transfer to a prison pending trial, but he was taken back to the Police Headquarters.

1137. On 22 November 2000, the Special Rapporteur sent an urgent appeal on behalf of **Haci Muhittin Ak**, his wife **Ayse Ak**, their son **Abdülhamit Ak** and their daughters **Gülizar Ak** and **Dilber Ak**, who had reportedly been arrested early in the morning on 18 November 2000 by gendarmes from a local outpost near their home in the village of Davahirap in Bingöl province, south-eastern Turkey. They were said to have been subsequently brought to the Gendarmerie headquarters in Genc, in the borough of Bingöl. It is reportedly not known where they are detained at present, or on what charges they are held. Haci Muhittin Ak is said to have been detained previously four or five times, and had reportedly been imprisoned until May 2000 for aiding and abetting the PKK. He is said to be paralysed and to have difficulty walking, reportedly as a result of previous torture.

Follow-up to previously transmitted communications

1138. By letter dated 1 December 2000, the Government gave further information on the case of 16 juveniles and young people reportedly arrested at Manisa Police Headquarters between 26 December 1995 and 5 January 1996 (E/CN.4/2000/9, para. 1054). It stated that the trial against 10 police officers charged with committing torture at the Manisa Directorate of Security was concluded on 15 November 2000 and resulted in one police officer being sentenced to 10 years and 10 months, one to 10 years, four officers to 9 years and 2 months, two to 8 years and 4 months, one to 5 years and 10 months, and a further officer to 5 years in prison, as well as prohibition on employment in the civil service for various periods.

Observations

1139. The Special Rapporteur acknowledges that the letter containing allegations that he sent to the Government was not sent sufficiently early to permit it to respond in time for inclusion in the present report. He nevertheless regrets that the Government has not informed him of any measures taken by way of implementation of the recommendations contained in the report on his 1998 visit to the country (E/CN.4/1999/61/Add.1), beyond the limited ones he reported last year (E/CN.4/2000/9, paras. 1087/1089). It is clear from other reliable sources, that positive procedural measures in respect of medical reporting were not fully in place or complied with as of July 1999 (Council of Europe document CPT/Inf. (2000) 17) and that these would not in any event be sufficient to be relied on as proving that torture and similar ill-treatment had not taken place. In the light of the incidents identified by the Committee on the Prevention of Torture (CTP) in the above document (paras. 9-13), albeit attenuated by the observation that "resort to the most severe methods of physical ill-treatment ... has diminished in recent times in the Istanbul area" (Council of Europe document CPT/Inf. (2000) 19), as well as the consistency of the allegations continuing to reach the Special Rapporteur, he is constrained to conclude that torture and similar ill-treatment are still a common occurrence in Turkey and can be expected to continue to remain so, as long as the main recommendations of the Special Rapporteur, as well as of the CPT, especially in respect of prolonged incommunicado detention, continue to be ignored.

Turkmenistan

Urgent appeals

1140. On 1 December 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Nikolai Nikolaevich Gherasimov**,

a correspondent for the Azerbaijan Azerpress news agency, who had been detained in Krasnovodsk in a special isolation facility since his arrest on 7 November 2000. He was allegedly sentenced to a five-year prison term for "fraud" after what has been described as a speedy trial. It had not been confirmed whether he has had access to his lawyer since his arrest.

Uganda

1141. By letter dated 5 October 2000, the Special Rapporteur advised the Government that he had received information on **Margaret Arach**, who married Livingstone Sikuku in 1997. The Special Rapporteur on violence against women, its causes and consequences, sent a communication on her behalf on 22 July 1999 to which it is believed no response has been received so far. Since 1997, her husband has allegedly physically and psychologically abused her. Her efforts to obtain help from the police and the local authorities were said to have remained without result. In September 1998, her husband allegedly stabbed both Margaret's mother and youngest sister with a knife known as a panga. They later died in the nearby Lacor hospital. Livingstone Sikuku then handed himself in to the authorities. Although he is in police custody he has never been charged and denies any involvement in the murder.

Ukraine

1142. By letter dated 5 October 2000, the Special Rapporteur advised the Government that he had received information on the following individual cases.

1143. **Sergey Lazerenko** was reportedly arrested at his home on 9 June 1999 in the town of Krasny Luch in the Lugansk region on suspicion of burglary. During interrogation, which lasted more than a month, three police officers allegedly repeatedly beat him in order to force him to confess to a range of crimes, including murder. He suffered various injuries to his head, chest, a broken jaw and multiple bruising, for which he did not receive medical treatment. He reportedly remains in prison awaiting trial.

1144. **Anatoly Zhovtan** was allegedly arrested on suspicion of murder on 27 November 1998. Whilst detained at the Leninsky district police station he was allegedly repeatedly beaten during interrogation and subjected to a torture method known at the slonik, whereby a gas mask was placed over his head and the flow of oxygen was cut off. In addition, police officers are reported to have burnt his genitals and inserted a stick into his anus. As a result of his treatment, Anatoly Zhovtan is understood to have spent 42 days in hospital, where he was treated for multiple bruising, burns, broken ribs and concussion.

1145. **Sergey Ostapenko** was reportedly detained by police officers from the Cherkassy branch of the Directorate against Organized Crime in early April 1999. He was allegedly hung by his handcuffed hands from an elevated point in the room so that his feet did not touch the ground, for hours at a time. He allegedly developed gangrene in his hands after the flow of blood to his hands was stopped. On 10 May, he died at the Cherkassy prison hospital. The cause of death is alleged to be gangrenous poisoning.

Urgent appeals

1146. On 21 September 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Géorgiy Gongadze**, founder and editor of the Internet newsletter "Pravda Ukrayiny", who had reportedly been arrested on 16 September in Kiev. It is believed that his arrest was connected to his activities as editor of a newsletter reported to criticize the Government, in particular on issues such as corruption among senior officials. His whereabouts were not known. Furthermore, **Oleg Yeltsov**, a reporter for the same newsletter, allegedly received threats on 15 September.

United Arab Emirates

Urgent appeals

1147. On 17 November 2000, the Special Rapporteur sent an urgent appeal on behalf of **Pifatool Karima**, a Sri Lankan woman, and four unnamed Emirati men and women, who had reportedly been sentenced to flogging by a shariah (Islamic) court in the Emirate of Fujairah in early November 2000. Pifatool Karima was said to have been sentenced to 120 lashes and 14 months' imprisonment for adultery. The others were reportedly charged with adultery and sentenced to between 90 and 120 lashes each, and to prison terms ranging from 10 to 16 months.

United Republic of Tanzania

1148. By letter dated 5 October 2000, the Special Rapporteur advised the Government that he had received information according to which torture and other forms of inhuman treatment are routinely used by the police and there are seldom prosecutions for such actions. In October 1999, the Inspector General of Police, for a period of one week, ordered the whipping of bus drivers and conductors for flagrant violations of traffic laws, a punishment similar to one ordered in 1998. The Special Rapporteur has also transmitted information according to which refugee camps run by the Ministry of Home Affairs are overcrowded, with alleged vigilante justice ruling within the camps. There are also reports that refugee women and girls have been subjected to sexual and domestic violence, including violence perpetrated by locals when they leave the camps to collect firewood.

1149. Prison conditions are reportedly overcrowded and life threatening. Bangwe prison is reportedly detaining between 300 and 600 prisoners, despite having capacity for around 60. There are allegations that inmates, including children who are detained with their mothers, are undernourished. The prison is understood to have one bathroom, comprising two taps and three toilets. There is reportedly a high incidence of disease among the prisoners and the medical facilities are understood to be poor. In particular, the Special Rapporteur also transmitted information on the following cases.

1150. **Kiza Asumani**, a detainee at Bangwe prison in the Kigoma region, died on 24 December 1999 after denial of medical treatment for injuries allegedly resulting from the torture he was subjected to during his detention at the central police station.

1151. **Moshi Nkabigwa**, from Ndugwe village, Kasulu district, was serving a 30-year prison sentence at Bangwe prison. He suffered from polio which went untreated and he subsequently died on 5 July 1999.

1152. **Kimbulu**, who was detained on remand at Bangwe on suspicion of stealing goats, is said to be suffering from malaria for which he was allegedly denied medical treatment. When his case came to court, the magistrate is believed to have ordered that he be sent to hospital for treatment. This order was allegedly ignored and Kimbulu is said to have died on 26 October 1999.

United States of America

1153. By letter dated 15 November, the Special Rapporteur advised the Government that he had received information according to which excessive force, in particular the use of pepper spray, has been used against protesters who were said to be non-violent. In particular, the Special Rapporteur transmitted information according to which **anti-logging protesters**, who had locked themselves together, reportedly had liquid OC spray swabbed directly into their eyes by sheriff's deputies in Humboldt county, California in October 1997. **Students** said to have been engaged in a non-violent occupation of a university building in Berkeley, California were reportedly beaten with batons and pepper-sprayed at close range by officers from the University of California Police Department in April 1997. Pepper spray was also said to have been sprayed in arcs across the crowd. At least two people allegedly suffered asthma attacks, as well as other injuries, as a result. **Gay activists** protesting the homophobic murder of Matthew Shepard in Wyoming were reportedly arrested after a demonstration in October 1998. Some activists were said to have been denied HIV medication, food and water and not given access to toilet facilities. A number of demonstrators were reportedly subjected to ill-treatment and verbal abuse by police officers, including use of homophobic epithets.

1154. The Special Rapporteur also transmitted information according to which police used disproportional force against non-violent **protesters and others during the World Trade Organization talks in Seattle** at the beginning of December 1999. The police are said to have indiscriminately used chemical agents such as pepper spray and tear gas against protesters and bystanders. Some protesters who reportedly refused to leave police buses on arrival at Seattle detention centres allegedly had their eyelids pulled back by police officers and had pepper spray or gel applied into their eyes, nose and mouth. Furthermore, rubber bullets, wooden pellets and "flashbang" grenades were said to have been used indiscriminately against demonstrators. At King County jail, violent protestors were allegedly subjected to ill-treatment for acts of non-compliance such as refusing to give their names. Some persons were allegedly strapped into four-point restraint chairs in response to non-violent resistance or for having asked for their lawyers.

1155. The Special Rapporteur transmitted information according to which police officers have doused suspects with pepper spray as a form of "street justice" after they had already been restrained. In particular, the Special Rapporteur has received information on the following individual cases.

1156. **Earl Faison**, an asthmatic African American suspect in a police shooting, reportedly died in April 1999 in police custody in New Jersey after having allegedly been punched and doused in the nose and mouth with pepper spray while handcuffed to a stairwell at police headquarters.

1157. **Lewis Rivera**, a homeless man arrested for loitering in a shopping mall in Miami in May 1999, was allegedly chased by some six police officers, who reportedly sprayed him with pepper spray, kicked him, threw him to the ground and bound his hands and feet before dragging him to a police car. He died less than an hour later in a police holding cell.

1158. **Rafael Perez Siberio**, a homeless man, reportedly died in February 1999 after being restrained and pepper-sprayed by police officers during a struggle with officers in Miami who were arresting him for jumping on cars and "acting crazy".

1159. **James Earl Livingston** reportedly died in July 1999 in Tarrant County, Texas, after having being pepper-sprayed and placed in a restraint chair.

1160. The Special Rapporteur continued to transmit information according to which stun belts are used by a growing number of law enforcement agencies during transportation and in courtrooms, and other weapons such as stun shields and stun guns are allegedly increasingly being used in jails and prisons. The following individual cases were also transmitted.

1161. **Ronnie Hawkins** was reportedly convicted in April 1998 of second-degree burglary. At his sentencing hearing on 30 June 1998 in the Municipal Court of the Long Beach Judicial District, he was said to have been shackled and chained and had also been fitted with a stun belt under his jail-issue clothing. When the judge grew angry with his repeated interruptions, she is said to have warned him that he was wearing a "very bad instrument". The judge eventually reportedly ordered a Los Angeles County bailiff to set off the device. As a result, he is said to have experienced shaking, a stinging in his spine, pain in his back and a temporary paralysis.

1162. **Claude Maturana,** a severely mentally ill Arizona death row inmate, reportedly received an electric shock in the back of a Department of Corrections van as he was being transported from Arizona State Hospital to a court hearing in June 1999. At the time of the transport, he was said to have been shackled, handcuffed and wearing a stun belt.

1163. **Roy Hollaway** was reportedly given an electric shock when his stun belt was activated during the prosecutor's closing argument at the capital trial in Las Vegas, Nevada, in October 1997. The electro-shock is said to have caused him to fall from his chair and "shake uncontrollably" on the floor. An officer allegedly claimed that he had inadvertently set the stun belt off when he leaned across a desk.

1164. The Special Rapporteur transmitted information according to which a number of persons have been suffering severe consequences from the use of improper methods of restraint. A number of them are said to have died. The following individual cases were transmitted.

1165. **Dwayne Nelson** reportedly died in September 1998 after being placed in a Total Appendage Restraint Procedure (TARP), a form of hogtie, by Los Angeles County sheriff's deputies while being transported to jail. He is said to have lost consciousness while still in the patrol car and died in hospital less than two hours later.

1166. **Danny Smith**, a mentally ill inmate, reportedly died during a struggle with Los Angeles County sheriff's deputies at the Los Angeles County Jail Twin Towers facility in August 1998. The coroner is said to have ruled that a contributing factor in his death was "probable positional asphyxia", i.e. the inmate having been knelt on by officers or having been pressed face-down to the ground.

1167. **Gregory Riley** reportedly died in June 1999 after a struggle with Chicago police officers during a drugs arrest. The Cook County medical examiner's office is said to have found the cause of death to have been "asphyxia due to compression of the neck and chest".

1168. **Danny Dunn**, a mentally disturbed Caucasian man who had been arrested for public drunkenness, reportedly died shortly after a struggle with deputies in a padded holding cell in Kern County jail, California, in February 1999. One of the officers reportedly sprayed him with OC spray while another allegedly stamped on his chest and applied a carotid choke-hold. He was then reportedly placed in a choke-hold with an officer pressing his weight on him. He reportedly died six hours after his arrest. The autopsy report is said to have established the cause of death as internal bleeding from a torn liver resulting from "compressive trauma to the abdomen" due to a "hyper excitable state associated with terminal police struggle". The autopsy report also recorded three recent rib fractures and a recent skull fracture.

1169. **Roy Lynn Weeaks** was reportedly bitten in the groin by a dog attached to the Bakersfield Police Department's canine unit in California in February 1999. He was said to have surrendered and to have been lying face-down on the ground when police ordered the dog to bite him. As a result, he reportedly suffered severe injuries, including a nearly severed penis.

1170. The Special Rapporteur transmitted information on the alleged use of restraints in La Plata County jail, Durango, Colorado where most inmates are said to be awaiting trial or serving sentences of under a year. Inmates have allegedly been punished by being handcuffed to rings in the wall of the prison, or rings in the wall or floor of the isolation cell for about six hours for minor rule infringements, such as refusing to pick up a meal tray, using the intercom for non-emergency use and breaching clothing regulations. Inmates have also allegedly been punished by being held face-down on the floor of the punishment cell in four-point restraint, i.e., by having their ankles and wrists secured by leg irons and handcuffs to the floor and wall rings. The Special Rapporteur transmitted information on the following individual cases.

1171. **JoLea Lamor**, a transsexual person, was reportedly assaulted by two New York Police District officers, who had been summoned in response to a 911 request for emergency medical assistance in the Bronx on 24 November 1998. The police officers reportedly verbally abused her and pushed her against a wall after discovering that she was transsexual.

1172. **Yudaya Nanyonga**, an asylum-seeker from Uganda, was reportedly transferred in June 1998 to York County Prison from the Wackenhut facility in Queens, New York without adequate notice. When she arrived at the prison, she became distraught when she learned that she had been assigned to the maximum-security section of the prison. Prison officials reportedly stripped her naked, injected her with sedatives and placed her in a four-point restraint. She allegedly regained consciousness two days later and is said to be suffering from loss of memory and frequent nightmares as a result. The Immigration and Naturalization Service (INS) is said to have released her in early April 1999 and she was granted asylum in August 1999.

1173. **Christopher Beck**, a death row inmate at Sussex I State Prison, reportedly threw a cup of water at a nurse through the food slot in his cell door on 10 May 1999. About one and a half hours later, up to 10 prison guards are said to have entered his cell, to have beaten him for 45 minutes and to have arbitrarily electro-shocked him with a stun shield. He was then allegedly held in four-point restraint for 24 hours.

1174. **Frank Valdes**, was reportedly beaten to death by prison guards on Florida' s death row on 17 July 1999. Guards were said to have used chemical spray against him and to have entered his cell with electro-shock stun shields. According to autopsy reports, 22 of his ribs were said to have been broken, as were his jaw, sternum, collarbone, shoulder and three vertebrae. On 2 February 2000, four guards were said to have been charged with second-degree murder. They are said to have pleaded not guilty.

1175. **Emile Duhamel**, a severely mentally impaired and paranoid schizophrenic, who was taking anti-psychotic drugs, was reportedly found dead in his Texas death row cell on 9 July 1998. It is believed that medical neglect and the high temperatures (over 40° C) in the non-air conditioned cells during the summer heatwave may have contributed to his death.

1176. **George John Bouras**, a Greek citizen detained in Vacaville, California, has allegedly been kept in an isolation cell for almost three months. There he was said to have been beaten whilst in chains, subjected to further ill-treatment whilst naked and threatened with death if he did not keep silent. As a result of this treatment, he allegedly suffered a heart attack.

1177. **Jeremiah Mearday**, an African American youth, reportedly suffered a broken jaw after being hit with a police flash light in September 1997 by a Chicago police officer. The Police Board is said to have voted to dismiss two officers for "egregious violent conduct" and conspiring to cover up their actions. No criminal actions were reportedly brought against the officers.

1178. **Arthur X. Carson** was reportedly beaten by prison guards in Texas State Prison on 23 May 1995 when he was escorted from the infirmary by a prison guard. He was said to have been handcuffed with his hands behind his back, when a guard is said to have grabbed his arm and pulled him towards an exit door where he and another guard allegedly punched Arthur Carson's eye repeatedly. Whilst he was lying face down on the floor, one prison guard is said to have slammed his head on the concrete floor whilst the other reportedly grabbed his legs, folded them into a crossed position and applied pressure with his body weight. As a result of the beating, Arthur Carson reportedly suffered profuse bleeding, a chipped tooth and a broken lip, as well as concussion and other cuts and abrasions. On 1 October 1999, two officers reportedly hit his head against a metal door entrance, inflicting concussion.

1179. **Henry Watkins "Hank" Skinner**, a death row inmate currently at the Charles T. Terrell Unit "Isolation - Super Seg" security prison, was reportedly assaulted by a prison guard in Ellis Unit in Texas on 30 March 1999, during a cell search. The guard is said to have intentionally stamped on his hand with the heel of his boot. The injury was reportedly treated at the Ellis Unit infirmary and he reportedly lodged a complaint. On 14 April, the same guard allegedly threatened to stamp on his other hand and to break it. Henry Skinner was reportedly subjected to the "execution protocol", despite the fact that he had been granted a stay of execution on 2 March 1999 and even after he had presented a certified copy of the stay order. One guard is said to have ordered him to be moved to the "death watch cell" to which death sentence prisoners are confined in the final days before their execution. When he refused to be moved, disciplinary charges were allegedly filed. Until 1 June 1999, the date initially scheduled for his execution, he was kept in the belief that he would be executed. On 18 June 1999, he was reportedly transferred to the Charles T. Terrell Unit "Isolation - Super Seg" security prison. There he was kept isolated, in a cell with a rectangular slit high up on the wall, measuring 3 inches by 3 feet and covered by solid glass which does not allow fresh air circulation or ventilation. Recreation is said to be carried out alone in a cell with skylight access.

1180. The Special Rapporteur transmitted information on the conditions of detention in Boscobel Supermax Correctional Institution in Wisconsin. Lights said to be kept on for 24 hours a day, reportedly leading to sleep deprivation and adverse psychological effects. Since 27 November 1997, when a failed escape attempt reportedly took place, detainees are said to have been subjected to sleep deprivation in a more rigorous fashion by officers kicking and/or beating on the cell doors on average every hour, inter alia with handcuffs, keys and riot batons, continuously during the day. There is never a single period over two and a half hours, and more frequently it is under an hour, that the detainees are not checked upon. Guards are said to frequently run down the halls, banging on cell doors, sometimes in riot gear, in the middle of the night and reportedly instilling fear. As a result, many detainees are said to suffer from stress-induced hypertension (high blood pressure) and to have been placed on medication for it. Detainees are said to be subjected to daily cell searches. The toilets in the cells allegedly flush automatically every 30 minutes and the smell of excrement reportedly comes through the vents of other cells, leading to nausea. The prison allegedly does not possess any air conditioning.

This is said to lead to extremely hot temperatures and high humidity in the cells during the summer months. Showers in the cells are said to operate insufficiently and detainees are said not to be provided with sufficient hygiene materials. Detainees are said to be entitled to four hours of recreation per week, which is spent in an indoor cell twice the size of an ordinary cell containing no exercise machines. Many cells are said to be equipped with cameras, leading prisoners to feel that they are constantly being watched. Visits can only be carried out via video link and prisoners are said to be kept without any physical contact with another person.

1181. **Byron C. Moore**, at present at Supermax Correctional Institution at Boscobel, and a number of other inmates were reportedly severely beaten by fully geared guards with billy clubs and kicked in the cafeteria of a private prison in Whiteville, Tennessee on 30 November 1999 following a riot. Chemical agents such as pepper spray, tear gas grenades and riot electric shell grenades were said to have been used against them. Subsequently, Byron C. Moore was reportedly stripped and was taken with about 40 other detainees to an open area, where they were allegedly exposed to all the female staff, who took photographs of them. Following this incident, the detainees were reportedly not given any medical treatment. Thirty-two inmates allegedly involved in the event, including **Gerald Tucker,** who was also reportedly beaten and sprayed with chemical agents, were said to have been transferred to the Supermax Correctional Institution at Boscobel on 9 December 1999 without an opportunity to refute the allegations.

1182. By letter dated 6 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1999 regarding which no reply had been received.

Urgent appeals and replies received

1183. On 10 August 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on behalf of **more than 400 peaceful demonstrators** who had been arrested by the Philadelphia police in the wake of the Republican Party Convention on 1 August in downtown Philadelphia, where it is reported that peaceful demonstrations against the death penalty, prison conditions, racism and similar issues were taking place. More than 250 demonstrators were still being held in custody and were said to be denied access to food, water and to the bathroom for extended periods of time. Some had been denied essential medication.

Follow-up to previously transmitted communications

1184. By letters dated 11 May 2000 and 6 December 2000, the Government responded to allegations transmitted by the Special Rapporteur in November 1995, in November 1998 and in June 1999.

1185. The Government explained that the Criminal Section of the Civil Rights Division of the U.S. Department of Justice was responsible for the enforcement of national provisions relating to misconduct, including brutality, by law enforcement officials. In cases of alleged violations, the Civil Rights Division reviews the investigation conducted by the local authorities and the Federal Bureau of Investigation (FBI). A federal grand jury is convened where further investigation is warranted. The Criminal Section seeks an indictment and prosecutes the case in a federal court when sufficient evidence proves the allegation beyond reasonable doubt.

Otherwise, the matter will be closed, which does not imply that the subject's actions were justifiable. The Government notes that a number of cases transmitted by the Special Rapporteur did not indicate whether or where domestic remedies had been sought. Accordingly, in some of the cases it did not prove possible to identify the individual in question.

1186. Regarding Oklahoma State Penitentiary (E/CN.4/1996/35, para.183), the Government responded that, since 1997, the U.S. State Department of Justice has been plaintiff-intervenor in the case of Battle v. Saffle, which addresses conditions at all of Oklahoma's state prison facilities, and is still pending. A stay in the proceedings was lifted by the District Court after a year of settlement negotiations. A hearing was held in April 1999 to consider a motion of emergency relief filed by private plaintiffs. Since that time, the court has been considering medical issues and other conditions to determine whether the state's motion to dismiss the case should be granted.

1187. Regarding the Indiana super-maximum security units (E/CN.4/1999/61, para. 739), there exists no open investigation with the Civil Rights Division. The U.S. Department of Justice does not object to super-maximum facilities, if they are humanely run. The Civil Rights Division shares some of the Special Rapporteur's concerns and the Special Litigation Section investigated the Maryland Correction Adjustment Center in Baltimore from December 1994 until 29 September 1998. The investigation focused on out-of-cell activities, the use and development of objective criteria for transfer to less restrictive prisons and the provision of mental health care.

1188. Regarding INS/Border Patrol issues (E/CN.4/1999/61, para. 741), the Government responded that the Office of Internal Affairs (OIA), had issued a memorandum, entitled "Lessons learned", making recommendations to the Border Patrol, such as that each vehicle is to have water available for detainees at all times. The Immigration and Naturalization Service (INS) has adopted "Enforcement standards for escorts and use of restraint policies", which recommend the use of handcuffs and shackles only when transporting an individual with a criminal history, or an individual who appears to be an escape risk or has indicated resistance to removal from the United States. Complaint forms are both available in English and Spanish. It is the policy of the INS to place each detained juvenile in the least restrictive setting appropriate to the minor's age and special needs. If a family is detained, INS policy is to house them together in a non-detention facility, such as a hotel, when possible. The INS attempts to place all unaccompanied juveniles into its shelter care programme, which can accommodate up to 355 juveniles. The INS also attempts to reunite juveniles with family members in the United States. It has a policy of guaranteeing minors access to pro bono and other legal representation, and of affording them access to counsel if they believe their rights are being abridged under the settlement agreement in Flores v. Reno (1993). Regarding the allegations on the beating of several boys aged 14 to 17 in the autumn of 1997 (ibid., para.747), the Government responded that without more details, the INS could not identify the alleged incident.

1189. Concerning the body searches of women arrested by the INS (ibid., para. 748), the Government responded that the INS had enforcement standards, which stipulated that any body search was to be conducted by an individual of the same sex, unless the person conducting the search was a physician, a physician's assistant or a nurse. The policy also required that a witness be present during all strip and body cavity searches. Regarding the general allegation relating to

the deportation of women, there is an agreement in place for the safe and orderly return of Mexican nationals over the border of California which requires the Mexican authorities to be notified of any repatriation at least 30 minutes before it occurs. The agreement also provides that unaccompanied minors will only be processed at certain places, during certain hours and always with the intervention of the Mexican consulate.

1190. Concerning Daniel Rodriguez Biurquiz (ibid., para. 742), the Government responded that he had filed a complaint through the Mexican consulate in Tijuana. The allegation was transferred to the Office of the Inspector General (OIG) which opened an investigation in conjunction with the FBI. Neither the OIG nor the FBI investigation developed any substantive information related to any INS employees' involvement in the alleged conduct and failed to confirm that Daniel Rodriguez Biurquiz was ever in Border Patrol custody. Attempts to reach him at his last known address were unsuccessful. The matter was declined for criminal prosecution on 3 June 1997 and the investigations were closed. The Office of Internal Audit concurred that the allegations had not been substantiated.

1191. Concerning Sergio Ponce Rodriguez (ibid., para. 743), the Government responded that the complaint had been reported to the OIG on 3 April 1996. It was alleged that on 27 March 1996, a Border Patrol agent injured his arm when attempting to remove him from a border patrol vehicle. An emergency medical technician examined Sergio Ponce Rodriguez at the scene and determined that there was no injury. The OIG conducted an inquiry and concluded that he was acting in a belligerent manner and had to be removed from the vehicle. He had also attempted to flee border patrol custody twice after being discovered to have been in the United States illegally. He also falsely claimed to be a juvenile when first encountered. He withdrew that statement and voluntarily returned to Mexico.

1192. Concerning Jesus Hector Gaspar Segura (ibid., para. 744), Jorge Sorriano Bautista (ibid., para. 745) and Ramon Gonzales Garcia (ibid., para. 746), the Government replied that no complaint relating to these individuals had been filed with the Civil Rights Division and that the Office of the Internal Audit had no record of a complaint having been registered.

1193. Concerning Luz Lopez and Norma Contreras (ibid., para. 749), the Government responded that the lawsuit filed against the Border Patrol agents in the matter was handled by the Constitutional Torts Section of the Torts Division, which investigated and closed the case on 12 December 1996. The incident was further investigated by the FBI and the Office of the Inspector General, on behalf of the Civil Rights Division. Although the matter was declined for prosecution, a Border Patrol agent was removed from his employment with the INS on 23 January 1998 for his involvement in sexual misconduct with individuals in his custody and for failure to follow INS procedures regarding detainees. The agent appealed this decision with an arbitrator, who ordered the INS to reinstate him.

1194. Concerning the New York Police Department (E/CN.4/1998/38, paras. 198-199), the Civil Rights Division, the U.S. Attorney Office for the Eastern District of New York and the U.S. Attorney for the Southern District of New York were conducting an investigation.

1195. The Government responded that the cases of Oliver Jones (E/CN.4/1998/38/Add.1, para. 451), Mohammed Assassa (ibid., para.453), and Richard Butler (ibid., para. 454) were currently pending review by the Criminal Section of the Civil Rights Division.

1196. Concerning Ernest Sayon (E/CN.4/1996/35/Add.1, para. 790), the Government stated that the matter was reviewed and closed by the Criminal Section of the Civil Rights Division in October 1995.

1197. Concerning Marcos Maldonado (E/CN.4/1998/38/Add.1, para. 452), the Government stated that the matter was reviewed and closed by the Criminal Section of the Civil Rights Division in July 1996.

1198. Concerning Anthony Baez (E/CN.4/1996/35/Add.1, para. 791), the Government responded that the matter was prosecuted as United States v. Livoti by the U.S. Attorney's Office. The defendant was convicted on federal criminal civil rights charges. The case remains open in the Civil Rights Division pending appeal by the defendant.

1199. Regarding chain gangs (E/CN.4/1998/38, para. 200), the Government responded that the Civil Rights Division had concluded that in the absence of injury or other harm, chain gangs were not anti-constitutional. The use of chain gangs in United States prisons is rare. In consideration of unconstitutionality, the kind of work and conditions of work undertaken by prisoners on chain gangs would need to be reviewed. Most chain gang work involves highway clean-up and maintenance projects. The Civil Rights Division investigation of two Alabama prisons, Julia Tutwiler and Easterling Correctional Facilities, reviewed the use of the hitching post. Its use has been found unconstitutional in private litigation.

1200. Regarding the use of electro-shock stun devices (E/CN.4/1998/38, para. 201), the Civil Rights Division asked for increased training of officers using such devices and for restrictions on their use. The use of such instruments was not in itself unconstitutional. When used appropriately, they could be effective tools under conditions when the use of force was warranted by the actions of a prison inmate whom an officer was justifiably attempting to detain or arrest, and could sometimes be used as an effective, less lethal alternative where deadly force would otherwise be justified to protect the lives of officers or bystanders. The Justice Department's Bureau of Prisons (BOP) currently utilizes, as required, 51 stun belts, which are used when transporting maximum custody inmates under authorization by the warden or his designee, to prevent escapes, loss of life or grievous bodily harm. They are only used by the BOP where an inmate requires greater security than provided by conventional restraints and has no medical condition precluding their use. As of April, no custody control belt had been activated by BOP staff.

1201. Concerning David Hoyle (E/CN.4/1998/38/Add.1, para. 457), Bruce Sons (ibid, para. 458), James Oswald (ibid., para. 460), and David Dalbec (ibid., para. 459), the Government responded that the Criminal Section of the Civil Rights Division had no record of receipt of a complaint by these individuals.

1202. Concerning Eric Johnson (ibid., para. 456), Michael Bryant (E/CN.4/1996/35/Add.1, para. 788), and Cristino Hernandez (ibid., para. 789), the Government responded that the matters had been reviewed and closed by the Criminal Section of the Civil Rights Division in November 1996, October 1995 and December 1995, respectively.

1203. Concerning the situation in Madison Street jail in Arizona, the Special Rapporteur responded that the Civil Rights Division had initiated an investigation of the prison and of Maricopa County jails in 1995, which addressed, inter alia, the use of excessive force, improper restraints and medical and mental health care. The department filed a suit against the county which it dismissed in 1998 on condition of compliance with a settlement agreement. Medical care issues were settled in December 1999.

1204. Concerning Scott Norberg (E/CN.4/1998/38/Add.1, para. 463), the Government responded that the matter was pending review by the Criminal Section of the Civil Rights Division.

1205. Concerning Richard Post (ibid., para. 462), Bart Davis (ibid., para. 461), and Michael Hernandez, the Government responded that the matters had been reviewed and closed by the Criminal Section of the Civil Rights Division in July 1997, August 1998 and October 1995, respectively.

1206. Concerning hog-tying (E/CN.4/1996/35/Add.1, para. 786), the Government responded that the Civil Rights Division had addressed this issue in corrections and police work. It opened an investigation in September 1997 of Greenville County (South Carolina) Detention Center and informed the county that it had found unconstitutional conditions involving the use of force. The county addressed the issues and the investigation was closed in November 1999. The U.S. Department of Justice has an ongoing investigation of the Los Angeles and the New York police departments, involving allegations of the use of excessive force, and recently issued a findings letter regarding the same matter and restraint at the Jackson County Correctional Facility in Florida.

1207. Concerning the Terrell Unit (ibid., para. 792), the Government responded that the case of Ruiz v. Scott addressed conditions in the Texas prison system, and that the Department of Justice, as a plaintiff-intervenor, participated solely on the issues involving the constitutionality of the Prison Litigation Reform Act.

1208. Concerning Michael McCoy (ibid., para. 792), the Government responded that the matter was open and pending a prosecutive decision by the Civil Rights Division.

1209. Concerning Randy Payne (ibid., para. 792), the Government replied that the matter had been reviewed and closed by the Civil Rights Division in 1997.

1210. Regarding the Knox County Jail, Tennessee (ibid., para. 793), the Civil Rights Division did not have an investigation open into the matter.

1211. Regarding the conditions in the Oklahoma prison system (ibid., para. 794), these were addressed by Battle v. Saffle.

1212. Regarding the conditions at Pelican Bay Prison (ibid., para. 795), the Government responded they were subject to court orders in private litigation in Madrid v. Gomez. A correctional officer at the same prison was recently convicted by a federal jury of shooting an inmate because of the officer's dislike of inmates committed to the facility for child molestation and other sexual offences.

1213. Concerning Jeffrey Lee Weaver (E/CN.4/2000/9, para. 1094), Brian Hill (ibid., para. 1095), Wendell Harrison (ibid., para. 1097), Michael Labmeier (ibid., para. 1100), Nicholaus Contreras (ibid., para. 1104), James Parkinson (ibid., para. 1106), and Michael Valent (ibid., para. 1107), the Government responded that no complaints had been received by the Civil Rights Division and that the Office of Internal Audit had no record of receipt of a complaint related to these persons.

1214. Concerning Gil F. Webb (ibid., para. 1105) and Phillip Cordover (ibid., para. 1111), the matters have been investigated and are currently pending review by the Criminal Section of the Civil Rights Division.

1215. Concerning Kenneth Deputy (on whom it provided further information) and Roberto Ciaprazi (ibid., para. 1103), the Government responded that it had received a complaint on these cases. After conducting a review, the Department of Justice declined to initiate an investigation on the grounds that the matter did not present a prosecutable violation.

1216. Concerning Otis Brock (ibid., para. 1099) and Craig Shelton (ibid., para. 1098), the matters were reviewed and closed by the Civil Rights Division, in the latter case in May 2000.

1217. Concerning Anette Romo (ibid., para. 1109) and Richard Post (E/CN.4/1998/38/Add.1, para. 462), the matters were reviewed and closed by the Civil Rights Division, in the latter case in July 1997. The Civil Rights Division conducted a civil investigation into allegations of mistreatment in the facility where Anette Romo was held, and into allegations of excessive force and improper use of restraints in the facility where Richard Post was held. In both cases, the Division filed a civil action against the county, but entered into settlement, in the case of Anette Romo to remedy deficiencies in medical conditions, in December 1999, and in the case of Richard Post, to improve the treatment of inmates. Both cases were dismissed, the latter case in July 1998, when the county was found in compliance with the terms of the settlement agreements.

1218. Concerning Abner Louima (E/CN.4/2000/9, para. 1113), the incident transmitted was the subject of a federal criminal civil rights prosecution by the U.S. Attorney's office in New York, which was monitored by the Civil Rights Division. After a trial in a federal court, a New York City police officer was sentenced to 30 years in prison for "conspiracy to deny constitutional rights under colour of state law", four counts of "intentional violation of constitutional rights" and for tampering with witnesses in connection with the assaults on Abner Louima and Patrick Antoine. On 8 June 1999, another defendant was convicted on charges of violation of constitutional rights for restraining Abner Louima during the assault. On 7 March 2000, three other police officers were convicted on charges of conspiracy to obstruct justice for making false and misleading statements during the investigation of the assault. On 21 June 1999, two other police officers were charged with lying to the authorities during the investigation. The appeal is currently pending appeal.

1219. Concerning the alleged use of stun belts on HIV positive inmates at New Orleans Parish Prison in Louisiana (ibid., para. 1101), the Government responded that detention conditions in this prison would be the subject of a review by a consultancy firm looking at non-federal facilities housing people for the U.S. Marshals Service and the INS, on the basis of core standards developed by the Civil Rights Division.

1220. Concerning Wallen Ridge State Prison in Virginia (ibid., para. 1110), the Civil Rights Division has received many complaints and is monitoring the situation. A number of investigations are currently related to the treatment at this facility. In September 2000, the Civil Rights Division had opened an investigation of the super-maximum Red Onion State Prison in Virginia.

1221. Concerning the New York City Police Department (NYPD) (E/CN.4/1998/38, paras. 198-199), the Government responded that the Civil Rights Division and the Attorney's Office of New York were investigating alleged patterns of misconduct of the NYPD since the Abner Louima incident, pursuant to a 1994 federal statute authorizing the department to seek relief for a pattern or practice of law enforcement conduct that deprives persons of rights protected by the Constitution. The inquiry is focused on whether incidents of excessive force within the NYPD are the product of systematic deficiencies in police operations, including possible failures of complaint intake and investigation, discipline and supervision. After the death by shooting of Amadou Diallo, the investigation was expanded to include the NYPD Street Crime Unit.

Observation

1222. The Special Rapporteur welcomes the replies of the Government to allegations transmitted in earlier years and acknowledges that the allegations transmitted this year were sent out too late to provide the Government with an adequate opportunity to respond in time for the present report. He notes, however, that the replies mainly concern the activities of the Civil Rights Division of the Federal Department of Justice. He also notes that, where cases have been closed, this is presumably because the issues in question have not involved issues connected with the constitutional Bill of Rights, especially the right not to be subjected to "cruel and unusual punishment". It is apparent that this standard falls short of the prohibition under general international law of "cruel, inhuman or degrading treatment or punishment". The latter standard is binding on the United States of America, as on any Government, regardless of the State's reservation to article 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

1223. Accordingly, he shares the concerns and endorses the recommendation of the Committee against Torture on its May 2000 review of the initial report of the United States of America under the Convention against Torture (A/55/44, paras. 179-180). The following concerns merit special mention:

> The number of cases of police ill-treatment of civilians, and ill-treatment in prisons (including instances of inter-prisoner violence): much of this ill-treatment by police and prison guards seems to be based upon discrimination;
>
> The use of electro-shock devices and restraint chairs as methods of restraint;
>
> The excessively harsh regime of the "supermaximum" prisons;
>
> The use of "chain gangs", particularly in public.

Uzbekistan

1224. By letter dated 6 June 2000, the Special Rapporteur advised the Government that he had received information according to which ill-treatment by the security force had resulted in the deaths of several citizens in custody. Police and National Security Service (NSS) forces are said to torture and harass persons, in particular human rights activists, Muslims and other citizens, who are reportedly arbitrarily arrested on false charges. The police is said to frequently plant narcotics, weapons or so-called forbidden literature on persons they want to arrest. Torture is reported to be used to extract confessions or to extort bribes, as well as to punish perceived political opponents. Torture methods are said to include use of electric shocks, near suffocation, and beatings with rubber sticks and plastic bottles filled with water. Those responsible for documented abuses are reportedly rarely punished.

1225. The Special Rapporteur also transmitted information according to which prison conditions are poor. Prison overcrowding is said to be the main problem. Up to 15 people are commonly held in cells designed for four. Tuberculosis and hepatitis are endemic, rendering even short periods of incarceration potentially deadly. It is alleged that there are severe shortages of food and medicines. Prisoners detained on political or religious charges are said to be denied access to their family and friends. The Special Rapporteur transmitted information according to which there exists a new prison complex in a remote area of the Karakalpakstan Autonomous Republic near the city of Jaslik, where more than 17 prisoners allegedly died from mistreatment in 1999 (see below). It is believed that there are additional unofficial prison facilities nearby, housing a large but unknown number of inmates. It appears that most of the prisoners transferred to Jaslik were convicted for their participation in unauthorized Islamic groups. Prisoners are denied adequate rations of drinking water while undertaking forced labour. These camps are allegedly situated in chemically or biologically contaminated areas. Human rights organizations have been denied access to prisons.

1226. The Special Rapporteur has received the following information on individual cases.

1227. **Vitalii Ponomarev** and **Nikolai Motrokhin**, two Russian journalists, are said to have been assaulted and beaten in the centre of Tashkent by unknown assailants on 1 August 1999 following their meeting with a well-known human rights activist, Marat Zakhidov. It is believed that this assault is connected with the journalists' investigation into "repression against religious organizations". They were said to have just returned from the Fergana Valley, where they were investigating cases of arbitrary arrest of Islamic religious leaders.

1228. **Talib Mamadzhanov** was reportedly sentenced to death by the Supreme Court in July 1999 for the murder of eight people. Seven co-defendants, one of them a minor, are said to have been sentenced for from 3 to 10 years' imprisonment. Talib Mamadzhanov is reported to have confessed to a series of murders between 1994 and 1997, including the murders of five police officers in the Fergana valley which reportedly sparked the wave of arrests of alleged "Wahhabists" that began in December 1997. Defendants had allegedly been beaten in pre-trial detention and at least three defendants claimed to have been tortured and forced under duress to give false evidence. **Isroil Parpiboyev** reportedly stated in court that he had been tortured with electric shocks and that he had been taken naked to the prison yard after cold water had been poured over him. A bottle was allegedly inserted into his anus and vodka was poured onto his

wounds. Talib Mamadzhanov appeared to be seriously ill during his trial and he lost consciousness during one of the hearings. The Special Rapporteur had transmitted information on the alleged torture of two other co-defendants, **Nosir Yusupov** and his son, **Dzhamaliddin**, by letter dated 24 November 1999.

1229. **Muhammad Bekzon,** the brother of the exiled leader of the banned opposition Erk party, Muhammed Salih, **Yusif Razimuradov,** a prominent member of Erk, **Kobil Diyarov**, a former member of the banned opposition movement Birlik, his nephew, **Negmat Sharipov**, on behalf of whom the Special Rapporteur sent an urgent appeal on 30 March 1999, **Mamadali Makhmudov**, an associate of Muhammad Salih and a well-known writer, on behalf of whom the Special Rapporteur sent an urgent appeal on 26 February 1999, and **Rashid Bekzhon**, another brother of Muhammed Salih, were reportedly sentenced on 18 August 1999 by the Tashkent Regional Court to from 8 to 15 years' imprisonment in a strict-regime corrective labour colony. All six were allegedly tortured in pre-trial detention in order to force them to confess to fabricated charges and to incriminate Muhammad Salih. Mamadali Makhmudov was reportedly constantly beaten, having his hands and feet burned, being suspended by his hands tied behind his back, having a gas mask put over his face with the air supply turned off and being threatened with rape and death. All are said to have been beaten with rubber truncheons and plastic bottles filled with water, suffocated and given electric shocks.

1230. **Batyr Khalilov**, his brother **Farikh Khalilov**, **Ashrafkhodzha Mashradkhodzhayev**, **Ubaydullo Rakhmatullayev** and **Shukhrat Sharafuddinov**, all members of Hizb-ut-Tahir (Party of Liberation), a banned Islamic organization whose goal is perceived by the authorities to be establishing an independent Islamic State in Uzbekistan, were reportedly sentenced on 18 August 1999 by the Tashkent Regional Court to prison terms ranging from 16 to 18 years on charges including forming an illegal religious organization, inciting religious hatred and attempting to overthrow the constitutional order. All five were allegedly tortured in order to force them to confess. The methods are said to have included suffocation with a plastic bag, being hung upside down, having needles stuck under finger and toe nails, having their hands and feet burned and having electric shocks administered via a device fitted to the head ("electric cap").

1231. **Danis Sirageb** was reportedly arrested on 23 or 24 May 1999 in Moscow and sent back to Uzbekistan, where he was sentenced to death by a court in Tashkent on 3 November 1999 for murder. He was allegedly severely beaten and taken to the dispensary of the prison in which he is detained in Tashkent.

1232. **Ganijon Khidirov**, one of 14 defendants sentenced to lengthy prison terms on 15 May 2000 by the Tashkent Provincial Court for purported acts of terrorism, is reported to have alleged during the trial that he and several of his co-defendants were systematically tortured to coerce their confessions. They were allegedly beaten, suffocated with plastic bags and burnt on several parts of their body.

1233. **Zinaida Petrovna Orlova** was reportedly detained by police on 9 July 1998 in her Tashkent apartment on suspicion of murder. She was held for 12 days incommunicado in one of the city's district police stations. During this time, uniformed and plainclothes police officers

allegedly beat her with their fists and with batons, threw her to the floor, kicked her, stripped her naked and threatened to sexually humiliate her in order to force her to confess to a murder. Psychological pressure, in the form of threats against her son, was also reported to have been used to extract her confession.

1234. **Tavakkaljon Akhmedov** was reportedly arrested on 15 May 1999 and charged with membership in the unregistered Islamic organization Hizb ut-Tahrir. During pre-trial detention in the basement of the Andijan building of the National Security Service (SNB), police allegedly punched and kicked him over a period of 17 days. When the SNB investigator pledged to continue the torture and threatened to cut off his tongue, he reportedly confessed to membership in Hizb ut-Tahrir. The Andijan Regional Court reportedly sentenced him to 17 years in prison. He is serving his term in Kashkadarya prison.

1235. **Murodjon Sattarov**, a 32-year-old pious Muslim from Andijan, was reportedly arrested by officers from the SNB on 21 April 1999. During pre-trial detention at the SNB, police are said to have repeatedly used electric shock torture to force him to sign a self-incriminating statement. Following a 15-minute trial on 18 July 1999, he was reportedly sentenced to 15 years' imprisonment on charges of attempted overthrow of the constitutional order, incitement to ethnic hatred, incitement to take part in a forbidden religious or political organization, organization of a criminal group, and preparation or distribution of materials which constitute a threat to public safety and order. He is allegedly regularly beaten in Karshi prison, where he is serving his sentence.

1236. **Komoliddin Sattarov**, younger brother of Murodjon Sattarov (see above), was reportedly arrested in his local bazaar on 2 February 2000. He is said to be currently held incommunicado in Andijan prison. On 3 May 2000, during the first day of his trial, he reported the torture inflicted on him during his detention at the Andijan city police department. He told the court that police beat him with nightsticks, electro-shocked him and stuck a sharp metal prong under his fingernails. He reportedly agreed to sign a self-incriminating statement. The charges against him include attempted overthrow of the constitutional order. However, the investigator in the case reportedly stated that the most incriminating evidence against him is the completed appeal to the United Nations Human Rights Committee which was found in the family home, written on behalf of Murodjon Sattarov. Police also reportedly confiscated six blank United Nations complaint forms, as evidence against Komoliddin.

1237. **Abdurahim Abdurahmonov**, the former Imam of Kokoldash Medresseh in Tashkent, is said to be currently missing in custody. He was arrested on or around 27 April 2000. Earlier, in 1998, he was reportedly arrested by police who charged him with falsifying his passport and who planted marijuana in one of his pockets. On the first day of his detention in 1998, police officers are alleged to have repeatedly beaten him on the head, causing him to lose consciousness for a full 24 hours. In his 1998 trial, he and his lawyer lodged allegations of torture against the police. He was reportedly released under a presidential amnesty decree after two months of detention. Upon release, a doctor diagnosed his injuries and found that he had sustained concussion, one broken rib, contused kidneys and nerve damage to the spine, which left him unable to stand or sit upright.

1238. The Special Rapporteur transmitted information on the following human rights defenders who are said to be under constant harassment and surveillance by the authorities.

1239. **Ismail Adylov**, a member of the Independent Human Rights Organization of Uzbekistan (IHROU), was reportedly sentenced by a district court to six years in prison on 29 September 1999 on charges that he possessed Hizb-ut-Tahrir leaflets and that he was guilty of anti-constitutional activities because of the ideas contained in those leaflets. The police had allegedly planted the religious literature in his home at the time of arrest. He was reportedly held in incommunicado detention for nine days and denied access to an attorney during the initial period of detention. He is allegedly denied medical treatment in detention for a chronic kidney ailment. For quite a long time, his whereabouts in custody were said to be unknown. He is now reported to be held in Kyzyltepa prison.

1240. **Rafshan Hamidov**, a member of the IHROU in the city of Kokand, was reportedly arrested on 12 May 1999 on charges of illegal possession of narcotics and a grenade at the home of **Mahbuba Kasymova**, a member of Birlik who served on the IHROU steering committee. The police are said to have planted evidence amongst his belongings. He was also reportedly beaten at the time of arrest, his arms being held behind him while he was punched in the ribs and lower back. Police reportedly searched Mahbuba Kasymova's home, confiscating a number of human rights documents, including victims' confidential accounts of abuses. In the following two months, the authorities summoned Mahbuba Kasymova, her husband and her adult daughters for questioning at the Iunusabad district police station and later the Tashkent city police station. An investigator of the Tashkent city police department allegedly threatened one of Kasymova's daughters, **Muhayo Kasymova**, during questioning. She was forced to sign a statement incriminating her mother. On 19 May 1999, after subjecting Mahbuba Kasymova to a full day of questioning, the police compelled her to attend a so-called "hate rally" that branded her an "enemy of the State" and accused her of aiding terrorists in front of an auditorium filled with some 250 people, some of whom were believed to be plain-clothes police officers. She was allegedly subjected to personal insults impugning her dignity as a wife and mother. She was charged with concealing a crime and her trial opened on 13 July 1999. She was reportedly appointed a government attorney on the spot. The court is said to have taken less than 15 minutes to deliberate, convict and sentence her to five years in prison. The police reportedly took her directly to Tashkent prison, where she remained until they transferred her to a women's prison in September 1999.

1241. **Muidin Kurbanov**, a member of the Human Rights Society of Uzbekistan (HRSU) section in Jizzakh, was reportedly arrested on 3 September 1998 and beaten in the basement of the Jizzakh provincial police headquarters while being questioned about his human rights organization and the whereabouts of Imam Obidhon Nazarov. He was then transferred to a pre-trial detention centre near Pakhtakor district police station, where he was reportedly held in incommunicado detention for a week. He was transferred for further questioning to a basement cell in the Ministry of Internal Affairs in Tashkent, where he was allegedly beaten, in particular on the head, every day during one week. For several days he was allegedly forced to stand with his legs spread apart and was kicked between the legs. He was reportedly questioned by two new officers who identified themselves as agents from the National Security Service (SNB)

and who asked him to confess that he was a "Wahhabist". He reportedly complained to these SNB officers that he had been beaten. He was taken to prison to Khavast, in the Syrdarya province, where he was kept for a month. He was then taken to Zamin district, where he was sentenced to three years in prison. The authorities are reported to have denied him the right to legal counsel. He was shuffled around to a series of prisons, from Khavast to Tashkent prison and then to another in Karshi. On 13 January 1999, he was freed from prison under a presidential amnesty. After his release, the local police in Jizzakh reportedly called him in for questioning several times without issuing a written order to report to the station. They accused him of being a member of Hizb ut-Tahrir. On 3 September 1999, he was reportedly called in to the Zarbdor district procurator's office in Jizzakh region, where he was told by the deputy procurator that he was still under State surveillance and that the procurator could send him back to prison at any time.

1242. **Haidbai Yakubov**, an HRSU member in Khorezm province, was reportedly detained for three hours by officers of the Urgench district police station on 11 April 1999. An investigator is said to have questioned him about his human rights activities. A masked officer wielding a nightstick reportedly beat him repeatedly before he was eventually released. Before being interrogated, it is reported that he was made to witness the beating of another detainee.

1243. **Tolib Yakubov**, the Secretary-General of the HRSU, was reportedly forcibly taken on 10 March 1999 by the mayor of his home town, Jizzakh, and the president of the local collective farm to a public gathering attended by neighbours, community leaders, police officers and local government officials. There, he was insulted, humiliated and accused of "anti-State activities". At some point, he was threatened to be killed. He formally complained on 17 March to the procuracy in Jizzakh. But no action was reportedly taken.

1244. **Meli Kobilov**, a member of HRSU in Jizzakh and a member of the Birlik Popular Movement and active member of the registered political party Vatan Taraqqieti (Development of the Fatherland), was reportedly arrested in October 1994 on allegedly fabricated charges that included illegal possession of narcotics and ammunition. He was reportedly tried and sentenced in February 1996 to 10 years in prison. He is said to be currently serving his sentence in Bekobod prison, after being transferred from Tashkent prison, where he allegedly attempted to organize prisoners to obtain better conditions and basic rights. It is believed that as a result of his activities in the prison he was placed by the authorities at the Bekobod facility in an isolation cell from 16 January to 12 March 1999. The isolation cells in which he was subsequently detained are said to be cold cement rooms, 3 metres by 3 metres in size, with an iron plank for a bed and infested with rats. On 1 February, the Deputy Minister of Internal Affairs, who was visiting the prison, is said to have threatened him with extrajudicial execution. One night, he allegedly fell down from the second tier of the iron bed and his chest is said to have hit an iron stool. As a result, his upper vertebra bone was broken and his right hand was swollen. He was denied medical treatment. The authorities reportedly placed him again in an isolation cell for an unspecified length of time beginning on 17 May 1999, but allowed him out of the cell on 20 May when he received a visit from his wife. His health is said to be deteriorating and he reported that he was not getting enough food. In addition, he is reportedly denied access to a lawyer. In November 1999, HRSU reported that the authorities had denied his wife's latest request to visit him.

1245. **Mukhtabar Akhmedova**, an independent human rights activist and a member of Amnesty International, was forced by Sobir Rakhimov district police officers to attend a so-called "hate rally" on 4 March 1999. At the time of arrest, she was allegedly beaten and insulted by men in plain clothes and a local police officer in uniform. She was allegedly kicked twice and her arms were twisted behind her back. After the so-called "hate rally", she was reportedly sentenced to 10 days of administrative detention in a two-minute "trial" conducted by a young man in plain clothes who called himself a judge. She was eventually released on 5 March 1999.

1246. Finally, the Special Rapporteur transmitted information on the following deaths in custody.

1247. **Farkhod Usmanov**, the son of a well-known imam in Tashkent, was reportedly arrested on 14 June 1999 for the possession of an Hizb-ut-Tahrir leaflet. He was reportedly held incommunicado during all his detention. On 25 June, his body was returned to his family. It reportedly bore marks of severe bruising and other markings suggesting that he died from torture while in custody. Officials claimed that he died of heart failure.

1248. **Akhmadhon Turakhanov**, a member of the unregistered Birlik democratic movement and the unregistered Independent Human Rights Organization of Uzbekistan, was reportedly arrested on 29 December 1998 after having openly criticized local Namangan officials in a public meeting there. He was reportedly sentenced to five and half years in prison. A doctor who testified during his trial is said to have warned the authorities that Akhmadhon Turakhanov was diabetic and required proper medication. He reportedly died in custody on 19 June 1999 because the prison authorities refused to treat his diabetes.

1249. **Jurakhon Azimov**, a leader of the political opposition group, the popular movement Birlik (Unity), in Andijan, was allegedly tortured to death by the Karakalpakstan prison authorities. He had been sentenced to 16 years in prison on 5 May 1999 after a trial that reportedly relied wholly on fabricated evidence of his "anti-State activities". His body reportedly bore marks of torture, including large bruises, razor-blade cuts and a smashed face.

1250. **Azim Khodjaev** was reportedly arrested on 5 April 1999 on suspicion of possession of narcotics. On 11 June 1999, he was reportedly sentenced to eight years' imprisonment by the Khorezm regional court and sent to a camp near the city of Jaslik in Karakalpakstan. He reportedly died on 2 July 1999. His body is said to have been delivered to his family on 13 July. It is believed that he died from injuries sustained after having been tortured.

1251. **Shuhratbek Parpiev** was reportedly arrested in 1999 on suspicion of involvement in "Wahhabism". He was sentenced to five years' imprisonment after having been convicted of concealing a crime and was sent to a camp near the city of Jaslik. He reportedly died on 5 May 2000 from lung deficiency and pneumonia. Persons who saw his body are reported to have noticed several large bruises on his body and that his cervical and collarbones, as well as some of his ribs, were broken. His wrists and feet were reportedly swollen and were blackened with bruises. It is also reported that the bed sheet and blanket in which his body had been wrapped were covered in blood.

1252. **Rustam Norboboyev** was reportedly arrested on 14 March 1999 and detained at the Yakkabag regional office of the Ministry of Internal Affairs. On 19 March, his dead body was reportedly delivered to his family. The cause of death was said by the authorities to be suicide by hanging. A few days later, his brothers are said to have tried to file a complaint with the Yakkabag regional prosecutor's office, which is reported to have refused to open a case.

1253. **Jumaev Sherali** was reportedly arrested by militia officers of Shakhrisab city office of the Ministry of Internal Affairs on 28 August 1999. He is said to have died on 14 October 1999 at the city hospital. Numerous traces of torture were reportedly found on his body.

1254. **Azimboi Khojaev** was reportedly arrested on 4 April 1999 and charged with possession of narcotics. He was reportedly sentenced on 11 June 1999 to eight years' imprisonment in a hearing that lasted only half an hour. On 13 July 1999, the police are said to have returned his body to his family with a death certificate indicating heart failure as the cause of death. It is believed that he died from torture in detention, as police refused to let his family or neighbours see the body.

1255. **Shukrat Parpiev**, a former auto mechanic from Andijan, was reportedly arrested in April 1998 after police put out a warrant for the arrest of the auto shop's owner, who allegedly fled to Afghanistan. He was reportedly tried alongside 15 other men in the Supreme Court in December 1998 and sentenced to five years in prison for failure to report a crime. He was sent to Jaslyk prison in the Autonomous Republic of Karakalpakstan. On 5 May 2000, he allegedly died from torture. One of his shoulders was broken, he had bruises on his ribcage, dark black bruises on his arms and long, large black bruises all over his back. His backside was also said to be extensively bruised.

1256. By the same letter, the Special Rapporteur reminded the Government of a number of cases previously transmitted in 1996, 1998 and 1999 regarding which no reply had been received.

Urgent appeals and replies received

1257. On 30 June 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions on behalf of **Dmitry Chikunov**, who was convicted of the premeditated murder of two men and sentenced to death on 11 November 1999 by the Tashkent Regional Court. The Supreme Court reportedly turned down his appeal on 24 January 2000. It is alleged that he was tortured during pre-trial detention in order to make him confess.

1258. On 12 July 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions on behalf of **Oybek Ruzmetov**, his brother **Uygun Ruzmetov**, **Sardor Allayarov** and **Utkir Yusupov**, who were reportedly facing imminent execution after the Supreme Court rejected appeals against their death sentences. Oybek and Uygun Ruzmetov were arrested in December 1998. The two brothers were said to have been held at the Urgench National Security Services, where a confession was said to have been extracted from them under torture. In February 1999, the police are said to

have arrested the men's parents, to have forced them to undress down to their underwear and to have presented them in handcuffs to their sons. The police are said to have further threatened to rape Uygun Ruzmetov's wife unless they confessed. The four above-mentioned persons and **Shikhnozor Yakubov** were convicted of planning to blow up a water reservoir, attempting to overthrow the constitutional order in order to set up an Islamic state, organizing illegal armed groups, premeditated, aggravated murder and robbery, and were sentenced to death by the Tashkent Regional Court in July 1999. Shikhnozor Yakubov reportedly died as a result of beatings in prison in October 1999.

1259. By letter dated 24 August 2000, the Government responded to that urgent appeal and indicated that the Uzbek judiciary was independent, that every Uzbek citizen was guaranteed judicial protection of his rights and freedoms and possessed a right to appeal to courts against unlawful public actions, and that Uzbek law-enforcement agencies operated in accordance with national law. Furthermore, it pointed out that the information regarding summary, arbitrary and extrajudicial execution was wrong.

1260. On 25 July 2000, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Bahodir Hasanov**, who had reportedly been arrested on 17 July 2000 by the police. He was since held in incommunicado detention in an unknown location. He had previously been arrested on three occasions (in February, September and November 1999), on each of which he was allegedly beaten and threatened with being killed. His recent arrest is believed to be linked to his religious affiliation. He is considered by the authorities to be a member of the banned Islamic group Hizb ut-Tahrir.

1261. On 8 August 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions on behalf of **Rafael Mubarakshin**, who was reportedly convicted of the premeditated murder of another student of the Tashkent Aviation Institute and sentenced to death in December 1999 by the Tashkent Regional Court. The Supreme Court is said to have rejected his appeal on 14 February 2000. His confession to the crime was allegedly extracted under torture.

1262. On 16 August 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions on behalf of **Marat Rakhmanov**, **Andrey Zolotykh**, **Semyon Kimalov** and **Ruslan Gudimovich**, who had reportedly been sentenced to death following separate criminal trials for aggravated murder by Samarkand Regional Court. Their appeals were said to have been rejected by the Supreme Court. They were believed to have confessed to the crime after having been severely tortured. Marak Rakhmanov was severely beaten at Samarkand police station No. 6.

1263. On 31 October 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions concerning the draft law on combating terrorism, which had its first Parliamentary hearing on 31 August 2000. Article 31 reportedly reads as follows: "As it is allowed within the legislation, necessary harm can be caused to life, health and property of terrorists during antiterrorist operations. Military

personnel, specialists and other individuals engaged in combat of terrorism are exempted from liability for damage which was inflicted during antiterrorist operations." Fears have been expressed that persons suspected of acts of terrorism may thus be at risk of torture and extrajudicial, summary or arbitrary executions.

1264. On 27 November 2000, the Special Rapporteur sent an urgent appeal on behalf of **Sultan Sharmatov** and **Sadybakas Madimarov**, who had reportedly been arrested by officers of the Vadil District Department for Struggle against Corruption and Smuggling of Uzbekistan and by police officers of the Vadil district on the territory of Kyrgyzstan on 4 October 2000. When arrested, they were said to have been beaten. Subsequently, they were reportedly detained in the Vadil district police headquarters, and later transferred to a detention centre in Fergana city. They are said to have been beaten severely for several hours every day. Sadybakas Madimarov is now believed to be in the regional prison hospital, reportedly as a result of torture and he is said to be close to death. Their families have been denied access to them.

Follow-up to previously transmitted communications

1265. By letter dated 31 July 2000, the Government responded that it had presented its initial periodical national report to the Committee against Torture in 1999, that it had taken into consideration the Committee's recommendations and that it was going to present the second national report, which would contain information requested by the Special Rapporteur, to the Committee by 27 October 2000.

Observations

1266. The extensive nature of the allegations reaching the Special Rapporteur over the years, particularly those described above, give grounds for serious concern over substantial violations of human rights within his mandate. Accordingly, in June 2000, he requested an invitation, jointly with the Chairman-Rapporteur of the Working Group on Arbitrary Detention, to undertake a fact-finding visit to the country. In October, the Special Rapporteur had a meeting with the Permanent Representative of Uzbekistan to the United Nations in New York, following which the original request was retransmitted. He earnestly hopes that the requested invitation will be forthcoming in the near future.

Venezuela

1267. Con fecha 10 de octubre de 2000, el Relator Especial notificó al Gobierno que había recibido información con relación a los siguientes casos.

1268. **Andrés Flores** habría sido detenido el 26 de marzo de 1999 por la Policía Metropolitana en Caracas. Durante su detención habría sufrido golpes en varias partes del cuerpo entre ellas, la columna vertebral, lo que agravaría el cáncer de médula que padecería. Habría sido liberado poco después debido a la gestión de un sacerdote de la Iglesia Católica.

1269. **Marlon Pérez** se encontraría con miembros del Centro Juvenil de San Isidro en Petare, Estado de Miranda, el 3 de abril de 1999. Habría llegado al lugar una patrulla de la Policía de ese Estado y habría requisado a los jóvenes. Ante las protestas Marlon Pérez habría sido conducido a golpes por un policía, quien le habría apretado el cuello y golpeado la cara y los ojos. Habría sido conducido con otros dos jóvenes a la Policía de Miranda en Higuerote donde el policía que lo golpeó junto con el Subinspector habrían reconocido la ilegalidad del procedimiento. Habrían sido liberados, obligándolos a firmar, bajo amenaza, como supuestos testigos en otro caso.

1270. **Luis Buitrago** habría sido detenido por el Comandante Estrella que pertenecería a la Base de Protección Fronteriza (BPF) adscripta al Teatro de Operaciones Nº 1, quien lo habría buscado en su domicilio en la carretera nacional Victoria-El Nula, sector Los Caracoleros para que le hiciese un trabajo el 19 de mayo de 2000. Habría quedado detenido en la BPF y habría sido golpeado brutalmente. El 20 de mayo de 2000 habría sido trasladado a las instalaciones de la Policía en Victoria, y en horas de la noche a la Dirección de Inteligencia Militar, donde a raíz de nuevos golpes habría quedado en malas condiciones físicas. La detención se habría producido sin orden y se desconocerían los cargos que se le imputarían a la víctima.

Follow-up to previously transmitted communications

1271. Por carta de fecha 10 de agosto de 2000, el Gobierno informó de que José Asdrúval Ríos Rojas (E/CN.4/2000/9, párr. 1141), fue detenido el 4 de mayo, en el sector denominado "El Lindero", del barrio Isaías Medina Angarita, en compañía de otras personas en el marco de un operativo de rutina motivado por las constantes denuncias de los habitantes del sector y luego puesto en libertad una hora y media después, dejándose constancia en el libro de novedades del puesto policial. Asimismo se demostró que el antes mencionado exageró en sus denuncias con el fin de desvirtuar la realidad de los hechos. Revisados sus antecedentes se constató que había sido detenido en tres ocasiones por delito de porte ilícito de armas, robo a mano armada y robo.

Follow-up to the mission report (E/CN.4/1997/7/Add.3)

1272. Por carta de fecha 30 de junio de 2000, el Gobierno remitió observaciones sobre las recomendaciones hechas después de la visita del Relator Especial realizada a Venezuela en 1996, cuyo texto incluye las nuevas normas contempladas en la Constitución en materia de derechos humanos y de manera específica lo siguiente.

1273. Los derechos quedan establecidos de manera expresa con carácter enunciativo y no taxativo, permitiendo que sean reconocidos todos aquellos derechos y garantías inherentes a la persona humana que no figuran expresamente en la Constitución. Se consagra la obligación del Estado de investigar y sancionar legalmente las violaciones de los derechos humanos cometidas por sus autoridades y de indemnizar a las víctimas por los daños y perjuicios causados; se incorporan mecanismos para superar la impunidad; se instituye la prevención y sanción de la tortura y de la desaparición forzada de personas; la formación de cuerpos de seguridad; la defensa de los derechos de grupos vulnerables; las reformas requeridas en el régimen penitenciario; se concede a los tribunales ordinarios la competencia exclusiva para juzgar los

delitos por violación de derechos humanos y se restringe constitucionalmente el ámbito de la justicia militar, se ratifica la prohibición absoluta de la pena de muerte; se crea la figura del Defensor del Pueblo y la elección popular en cada estado del Defensor estatal de los derechos humanos.

1274. En materia de tortura, la Constitución la reconoce como un nuevo delito y prevé la sanción de los autores, cómplices y encubridores, así como de la tentativa de comisión del mismo y de quienes lo toleren; otro aspecto nuevo es la rehabilitación de las víctimas de la tortura y otras penas o tratos crueles, inhumanos o degradantes. Se garantiza la independencia del poder judicial y se establece que el Tribunal Supremo de Justicia gozará de autonomía funcional, financiera y administrativa. El ingreso a la carrera judicial y el ascenso de los jueces se hará por concurso de oposición público. Respecto al Código Orgánico Procesal Penal vigente, se indica que supera las deficiencias del Código de Enjuiciamiento Criminal, que se identificaban como fuertemente incidentes en la práctica de la tortura; se aprobaron las iniciativas de formación para agentes encargados de hacer cumplir la ley y del personal penitenciario y la organización por el ministerio público de talleres a nivel nacional, a fin de actualizar a los profesionales en medicina en los aspectos científicos de la investigación de la tortura. Queda pendiente la remisión de información sobre el Régimen de Visitas Penitenciario y la protección del derecho de los detenidos a obtener examen y tratamiento médico de acuerdo a los Principios de las Naciones Unidas; la propuesta formulada a las universidades nacionales en relación al servicio médico en las prisiones como parte del servicio médico rural obligatorio para profesionales de la medicina; el estado de la situación de la implementación del programa de construcción de prisiones y reducción del hacinamiento en las mismas; y programas tendientes a mejorar la problemática de la delincuencia juvenil y su tratamiento.

Observations

1275. The Special Rapporteur appreciates the responses of the Government on individual cases and by way of follow-up to the report on his 1996 visit (E/CN.4/1997/Add.3). In connection with the latter, he has also studied carefully the earlier response summarized in his report last year (E/CN.4/2000/9/Add.11, paras. 123-148). He considers that many of the measures taken are consistent with the recommendations he made and could go far to addressing the problem of torture and ill-treatment in places of detention. It will, of course, be necessary to monitor closely how the measures operate in practice.

Viet Nam

1276. By letter dated 6 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998 regarding which no reply had been received.

Urgent appeals

1277. On 25 August 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Thich Huyen Quang** (secular name Le Dinh Nhan), the 83-year-old Supreme Patriarch of the

Unified Buddhist Church of Vietnam (UBCV), who was believed to have been detained under house arrest since December 1994 in Nghia Hanh village, Quang Ngai province. He was arrested on 29 December 1994 following a government clampdown on the activities of the UBCV-sponsored rescue mission for flood victims in the Mekong Delta. On 5 July 2000, he was reportedly subjected to renewed interrogation and harassment by security police because of a letter he allegedly sent in April 2000, the anniversary of the fall of Saigon, to the Government of Viet Nam, in which he called for national reconciliation and respect for human rights. He is suffering from high blood pressure and a serious lung condition, for which he has reportedly been refused medical treatment.

Follow-up to previously transmitted communications

1278. By letter dated 10 December 2000, the Government responded to the two cases transmitted by the Special Rapporteur in September 1998 (E/CN.4/1999/61, paras. 793-794) and denied that the persons concerned had been subjected to any form of torture or ill-treatment. It further stated that the rights to be free from torture, corporal punishment, humiliation of honour and dignity were duly protected by the law. Those found guilty of torture or inhuman treatment are liable to criminal responsibility or disciplinary measures, depending on the seriousness of the case.

1279. Concerning Thich Nhat Ban, the Government indicated that he had been granted amnesty in October 1998 and was now conducting his normal religious life at Linh Phong pagoda, Don Nai province.

Yemen

1280. By letter dated 6 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1996 regarding which no reply had been received.

Urgent appeals and replies received

1281. On 12 July 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions on behalf of **Mohamed Omar Haji**, a refugee from Somalia, who was sentenced to death on 5 July 2000 by the Aden Tawahi Court for having converted from Islam to Christianity. It is believed that he had been seriously beaten and was threatened by the police during his interrogation at the al-Tawahi police station in Aden.

1282. By letter dated 24 November 2000, the Government confirmed that he had apostatized from Islam and that such conduct constituted an offence under Yemeni law. Accordingly, he was arrested to stand trial. In view of his refugee status, it was decided to expel him from the territory of Yemen in collaboration and coordination with the Sana'a office of UNHCR. He was expelled to Djibouti on 25 August 2000, as an alternative to the continuation of the trial proceedings.

Follow-up to previously transmitted communications

1283. By letter dated 20 November 2000, the Government replied to a number of cases transmitted by the Special Rapporteur in June 1997 (E/CN.4/1998/38, Add.1). The Government responded that a number of violations transmitted by the Special Rapporteur had been listed in a non-specific manner, making it difficult for the Government to reply to them, and that dates and persons responsible ought to be identified. The Constitution and laws of Yemen prescribe penalties for any violation of human dignity and physical and mental integrity, deterring anyone from committing such offences, which constitute exceptional individual phenomena. Furthermore, the Government drew the Special Rapporteur's attention to two cases of torture in which the persons responsible had been sentenced to up to 10 years' imprisonment, dismissed from the armed forces and ordered to pay compensation. The Supreme National Committee for Human Rights conducted human rights awareness campaigns on the prohibition against torture, inter alia amongst prosecutors and criminal investigation officers. There was no evidence to suggest the responsibility of security agents for the incidents referred to, but of lawbreakers acting for personal motives. Thus, complaints ought to have been submitted to the Department of Public Prosecutions to institute criminal proceedings, which had not been done in many of the cases transmitted, and not sent to the Office of the High Commissioner for Human Rights, since the international mechanisms for the protection of human rights should be resorted to only when domestic channels of legal redress have been exhausted. It was not proven that Muhammad Abdullah al-Heid (ibid., para. 474), Ahmed Said Salimin Bakhabeira (ibid., para. 475) and Dr. Abu Bakr al-Saqqaf (ibid., para. 476) were subjected to any ill-treatment.

Observations

1284. The Special Rapporteur cannot accept the assertion contained in the response of the Government regarding exhaustion of domestic legal remedies. The special procedures of the Commission, unlike certain treaty bodies, are not bound by any such rule and their working methods have consistently been endorsed by the Commission. He urges the Government to provide the requested information, in the absence of which he will be constrained to draw conclusions on the basis of the information transmitted, without benefiting from the Government's perspective.

Yugoslavia (Federal Republic of)

1285. By letter dated 6 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1997, 1998 and 1999 regarding which no reply had been received.

Urgent appeals

1286. On 13 September 2000, the Special Rapporteur sent an urgent appeal on behalf of **Miroslav Filipovic**, on behalf of whom the Special Rapporteur on the right to freedom of opinion and expression intervened on 28 July 2000. He is serving a seven-year sentence at the Nis military prison for espionage and "spreading false information". He has a history of heart problems and, since his imprisonment, is alleged to have experienced a deterioration in his medical condition and a weight loss of 20 kilograms. On 3 August 2000, it is reported that he

became unwell and was taken to the Nis military prison hospital. He was reportedly taken back to the prison just a few hours later against the advice of the doctor. On 8 August his condition is alleged to have deteriorated and he was taken to the cardiology unit at the Belgrade Military Medical Academy (VMA), where he was diagnosed with chronic arrhythmia (irregular heart beat). He was reportedly moved back to the prison three days later despite medical advice to the contrary.

Zambia

1287. By letter dated 6 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998 and 1999 regarding which no reply had been received.

Follow-up to previously transmitted communications

1288. By letter dated 26 April 2000, the Government responded to a letter transmitted in September 1998 (E/CN.4/1999/61, para. 805). Concerning the detainees arrested following the 29 October 1997 attempted coup d'état, a commission of inquiry headed by the judge hearing the treason trial in the High Court had been set up immediately to look into allegations of torture. After several hearings, the Commission had yet to present a report to the Government.

Zimbabwe

1289. By letter dated 6 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998 regarding which no reply had been received.

Urgent appeals

1290. On 2 November 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions concerning a clemency order issued by the President, entitled "Clemency Order No. 1 of 2000 General Amnesty for Politically-Motivated Crimes". The order grants total amnesty to every person "liable for criminal prosecution for any politically-motivated crime committed during the period of 1 January 2000 to 31 July 2000" and provides for a remission of any term of imprisonment imposed for such crimes (para. 3). A "politically-motivated offence" has been defined in paragraph 4 (a) as any offence "motivated by the object of supporting or opposing any political purpose and committed in connection with (i) the Constitutional Referendum held on 12 and 13 February 2000; or (ii) the general Parliamentary elections held on 24 and 25 June 2000 whether committed before, during or after the said referendum or elections". This amnesty does not extend to persons having committed a "specified offence" namely "murder, robbery, rape, indecent assault, statutory rape, theft, possession of arms and any offence involving fraud or dishonesty" (and any attempt, conspiracy or incitement to commit the above offences, as well as acting as an accessory to such offences after the fact). The Special Rapporteurs expressed their concerns to the Government that Clemency Order No. 1 of 2000 could lead to the granting of amnesty for serious offences against the person, inter alia for common assault, assault occasioning actual bodily harm, grievous bodily harm, manslaughter, kidnapping, abduction and "disappearance" where committed with a political motive or within the context of a politically motivated crime during that period.

Follow-up to previously transmitted communications

1291. By letter dated 10 November 2000, the Government responded to a letter transmitted in September 1998 concerning Kevin John Woods, Philip Masiza Conjwayo, Michael Antony Smith, Barry Desmond Bawden and Dennis Bawden, (E/CN.4/1999/61, para. 812). They had been imprisoned not only for blowing up the premises of the African National Congress but also for causing serious injury and loss of life. If the cells were indeed "overcrowded and unsanitary", these prison conditions equally affected all prisoners in Zimbabwe.

Information transmitted to the Palestinian Authority

1292. By letter dated 5 October 2000, the Special Rapporteur advised the Authority that he had received information on the following individual cases.

1293. **Khaled Mohammed Younis al-Bahar** was reportedly arrested on 25 May 2000 by the Preventive Security Service. He was detained at Dhaheria prison in the custody of the Palestinian police. He is alleged to have died in the detention centre on 6 June 2000.

1294. **Sami Naufal** was reportedly arrested on 16 August 1999, after his house was searched the previous night by the Palestinian Intelligence Service. On 20 August, the State Security Court ordered him to be held in detention for interrogation for 15 days. He was allegedly beaten, deprived of sleep and forced into painful positions for long periods of time, known as shabeh.

1295. **Munir Abdulmajeed al-Hurub** was reportedly arrested by the Palestinian General Intelligence on 1 October 1998 and held in Hebron for a few days and then transferred to the Palestinian General Intelligence headquarters in Jericho, where he is alleged to have been interrogated and beaten on several occasions and handcuffed until he had blisters on his hands. He was also reported to have been deprived of sleep, forced into the shabeh position and his feet were forced into salt water and he was made to walk on them.

1296. **Walid Mahmoud al-Qawasmi** was reportedly arrested on 25 July 1998 by the Palestinian General Intelligence and was transferred three days later to the detention centre in Jericho. He may have been released after four days but was re-arrested shortly afterwards and brought back to the Jericho detention centre. He was allegedly tortured and on 9 August 1998 he was reportedly admitted to the Jericho hospital. His condition was said to be so poor that he was then transferred to the Radifadia hospital in Nablus. He is understood to have died before reaching that hospital. The subsequent autopsy is believed to have revealed that he had been tortured to death.

1297. **Abed al Mouteeh al Ajlonee**, aged 17, was reportedly arrested with his brother, **Aiman**, on 5 August 2000 on the outskirts of Jerusalem. It is reported that Abed al Mouteeh al Ajlonee was seen at the Ramallah government hospital in a very poor condition, with a bleeding face and severe bruises. The two brothers were reportedly denied access to legal representation. It is alleged that the Ramallah police commander has justified the beating of detainees to force them to confess.

1298. By letter dated 23 October 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998 regarding which no reply had been received.

Urgent appeals

1299. On 23 February 2000, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Dr. Abdel Sattar Qasim,** a professor at al-Najah National University in Nablus, who had reportedly been arrested without a warrant on 18 February by two officers claiming to belong to the Criminal Police Department. His lawyer has twice been denied access by officials to Jericho prison.

1300. On 2 March 2000, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention regarding an alleged campaign of mass arrests of **students, university employees and activists** in and around Birzeit University in the West Bank following an incident after the visit of the French Prime Minister. By 29 February 2000, at least 35 individuals were said to be held incommunicado at the Palestinian Authority Military Intelligence and Police Headquarters in Jericho. Some were said to have been beaten.

1301. On 17 April 2000, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Khaled Dhiab al-Fugaha**, a resident of Deir Sharaf, Nablus district, who had reportedly been arrested without an arrest warrant by the police on 2 March 2000. He is believed to be held in incommunicado detention by agents of the Hifz al-Nizam (Protection of Order), a department of the Palestinian Police, in Nablus, although this has still not been officially confirmed by the authorities. It is believed that he is suspected of collaboration with Israel.

1302. On 31 May 2000, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Ahed Yusif,** a coordinator of the social work unit of the Addameer Association, **Khalid Farraj,** a journalist of the Al Ayyam newspaper from Ramallah, **Salim Sufan** and **Kameel Abu Hanish** who had reportedly been arrested on or around 26 May 2000 by Palestinian Preventive Security Service officers without any official warrants or bills of indictment in an arrest campaign in the Ramallah and Al Bireh area believed to be targeted at active members of the Popular Front for the Liberation of Palestine. All were said to be held in incommunicado detention in the Al Thahriyi prison, south of Hebron. Furthermore, **Nassir Abu Al Rab, Sami Al Rantisi** and **Salim Nimir Abdullah** were reportedly arrested between 20 and 21 May by the Palestinian General Intelligence Services after attending the funeral of Issa Abed in Ramallah. Their lawyer subsequently attempted to meet with his clients on 29 May, but was reportedly denied access.

1303. On 8 June 2000, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Mohammad Muqbel**, Director General in the Ministry of Youth and Sports, who had reportedly been arrested on 21 May 2000 when he was returning home from a condolence visit to the family of Issa Abed, who was said to

have been shot and killed during a recent demonstration in solidarity with Palestinian prisoners. He was reportedly held in solitary confinement in the Ramallah central prison. A number of criminal department agents had asked Mohammad Muqbel to sign a pledge to refrain from inciting against the Palestinian National Authority and carrying out nationalistic activities, which he reportedly refused to do. Mohammad Muqbel is said to suffer from respiratory problems.

1304. On 30 June 2000, the Special Rapporteur sent an urgent appeal on behalf of **Abed al-Fattah Ghanem**, one of the President's advisers on refugee affairs and a political leader of the Palestinian Liberation Front, who was reportedly arrested on 21 June 2000 by the Palestinian Police in Ramallah. The reason for Abed al-Fattah Ghanem's arrest is said to be statements he reportedly made to Jordanian and Arab Gulf newspapers regarding a just and final settlement to the refugee question and the alleged administrative corruption surrounding the issue. He was believed to be held in incommunicado detention.

1305. On 22 August 2000, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Falah Taher Nada, Ala Rimawi, Maher Awdeh, Wajih Ahmad Armand, Nayef Hmamdneh, Iyad Hamdneh, Hani Rawabjeh** and **Ala Shuli**, all from Ramallah, who had reportedly been arrested in the West Bank in mid-July by members of the Preventive Security Service. Some were said to be detained incommunicado at Junyad prison, in Nablus, and others in Baytunia.

Observations

1306. The Special Rapporteur regrets the absence of any response from the Authority to allegations and concerns transmitted by him since 1998. He considers that the record of United Nations concern for the well-being of Palestinians detained over the years by the occupying power would be expected to be acknowledged at least in the form of cooperation from the Authority. To the extent that the absence of replies reflects an inability satisfactorily to explain or refute the allegations, this would, against the same background, be especially reprehensible. The real difficulties of maintaining public order faced by the Authority demand understanding, but can in no way be invoked to justify resort to torture and ill-treatment.

IV. CONCLUSIONS AND RECOMMENDATIONS

1307. As his current mandate approaches its end, the Special Rapporteur will briefly take stock of the situation in respect of the problem of torture and cruel, inhuman and degrading treatment or punishment.

1308. If the test of the scope of the problem were the amount of information on torture and ill-treatment reaching the United Nations, then it would be necessary to conclude that the incidence of the phenomenon is increasing, certainly substantially more rapidly than the resources available to service the mandate. It has simply not been possible to process and fully take account of the amount of allegations reaching the Office of the United Nations High Commissioner for Human Rights. Nor have initiatives aimed at follow-up to the reports of his visits or responses to the allegations been more than rudimentary.

1309. However, the increase in information may be attributable to other factors, such as greater awareness of the existence of the mandate and heightened attention to the problem of ill-treatment of ordinary criminal suspects as compared with that meted out to political prisoners. What is clear is that no area of the world can claim yet to be a "torture-free zone". Indeed, some are torture-rife zones. In this connection, while deploring the need, the Special Rapporteur welcomes the decision of Amnesty International to launch its third worldwide campaign against torture.

1310. He is encouraged by the enhanced recognition of the problem of impunity as a condition of the continuance of the practice, and by measures aimed at countering impunity, including the use of universal jurisdiction - most vividly symbolized by the Pinochet litigation in the United Kingdom - but also the exercise of jurisdiction at the national level - again illustrated by developments in the Pinochet cases in Chile. The adoption of the Rome Statute of the International Criminal Court has also been a landmark step towards international jurisdiction over genocide, crimes against humanity and war crimes. The speed of ratification of the Rome Statute gives hope for the early creation of the Court. The Special Rapporteur urges all States to ratify the Statute at the earliest possible moment and, at the same time, to ensure that their national courts also have jurisdiction over the same crimes on the basis of universal jurisdiction; meanwhile, at the national level, all obstacles conducing to impunity should be removed. Generally, the main obstacle is manifested by the conflict of interest inherent in having the same institutions responsible for the investigation and prosecution of ordinary law-breaking being also responsible for the same functions in respect of law-breaking by members of those very institutions. Independent entities are essential for investigating and prosecuting crimes committed by those responsible for law enforcement. In this connection, he was particularly gratified by the decision of the General Assembly in its resolution 55/89, paragraph 3 to draw the attention of Governments to the Principles on the effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment annexed to that resolution and to strongly encourage Governments to reflect upon the Principles as a useful tool in efforts to combat torture.

1311. The other main factor constituting a condition of impunity is the prevalence of the opportunity to commit the crime of torture in the first place. This is why international standards require that the length of incommunicado detention be restricted to hours rather than days, that lawyers, physicians and family members have prompt access to detainees, and that detainees have early access to the judicial system. It is why the Special Rapporteur has been increasingly advocating, for the purposes of establishing State responsibility, a reversal of the burden of proof in relation to allegations of torture where prolonged incommunicado detention persists. It is also why he consistently recommends external supervision of all places of detention by independent officials, such as judges, prosecutors, Ombudsmen and national or human rights commission, as well as by civil society. His recommendation concerning videorecording of interrogation sessions and the presence of the person's lawyer at such sessions are for the same purpose. The same applies to his support for monitoring by independent monitoring institutions, such as the International Committee of the Red Cross and the Committee on the Prevention of Torture under the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, as well as the mechanism contemplated by the draft Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, should it be adopted with at least the powers enjoyed by the two mechanisms referred to above.

1312. It has become evident that there needs to be a radical transformation of assumptions in international society about the nature of deprivation of liberty. The basic paradigm, taken for granted over at least a century, is that prisons, police stations and the like are closed and secret places, with activities inside hidden from public view. The international standards referred to are conceived of as, often unwelcome, exceptions to the general norm of opacity, merely the occasional ray of light piercing the pervasive darkness. What is needed is to replace the paradigm of opacity by one of transparency. The assumption should be one of open access to all places of deprivation of liberty. Of course, there will have to be regulations to safeguard the security of the institution and individuals within it, as well as measures to safeguard their privacy and dignity. But it will be these regulations and measures that will be the exception having to be justified as such; the rule will be openness.

1313. This proposed reversal of our conceptions is, of course, motivated by a desire to prevent human rights violations within the Special Rapporteur's mandate and the Special Rapporteur expects that it will give rise to doubts and misgivings, especially among law enforcement and penitentiary authorities. It is his belief, however, that the approach he is proposing could also be of great value precisely to such authorities. In the first place it would help some authorities develop a constituency to support the granting of needed budgetary resources, frequently wholly inadequate because of the low political priority for the area. The same constituency could help resist the, usually counter-productive, demand to put more and more people into the human equivalent of dustbins, their custodians being reduced to the status of guardians of human rubbish dumps. It could draw attention to the often parlous conditions of work, residence and sustenance of police and prison personnel, which in turn could contribute to their being trained, paid and valued to act as professionals. Without detracting from the basic responsibility of public authorities for the well-being of detainees, organizations of civil society could also help in the provision of resources, for example, food, goods, medicaments, legal advice, education and so on. Further, all of this would make false accusations of abuse, always difficult to refute, much harder to sustain.

1314. The kinds of access implicit in this conception are not in themselves novel. The Special Rapporteur has encountered different manifestations of it in all parts of the world, but usually on an ad hoc or localized basis in some prisons or some police stations, but they are generally the exception, not the rule. Architecture will also have an important role to play.

1315. Accordingly, while urging serious national and international attention to the need to overcome impunity by ensuring individual accountability, the Special Rapporteur also recommends measures of transparency that could go far to preventing torture and ill-treatment in the first place.

1316. The compilation of revised recommendations (see E/CN.4/1995/34, para. 926) which, as previously stated on several occasions, may all be resolved into one global recommendation - an end to de facto or de jure impunity - follows:

(a) Countries that are not party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment or the International Covenant on Civil and Political Rights should sign and ratify or accede to these Conventions. Torture should be designated and defined as a specific crime in national legislation. In countries where legislative

provisions do not exist which give authorities jurisdiction to prosecute and punish torture, wherever the crime has been committed and whatever the nationality of the perpetrator is (universal jurisdiction), the enactment of such legislation should be made a priority. In this regard, provisions should also stipulate that evidence obtained through the use of torture, including confessions, should be excluded from judicial proceedings.

(b) Countries should sign and ratify or accede to the Rome Statute of the International Criminal Court with a view to bringing to justice perpetrators of torture in the context of genocide, crimes against humanity and war crimes and at the same time ensure that their national courts also have jurisdiction over these crimes on the basis of universal jurisdiction.

(c) The highest authorities should publicly condemn torture in all its forms whenever it occurs. Public campaigns aimed at informing the civilian population at large of their rights with respect to arrest and detention, in particular to lodge complaints regarding the treatment received in the hands of law enforcement officials, should be undertaken.

(d) Interrogation should take place only at official centres and the maintenance of secret places of detention should be abolished under law. It should be a punishable offence for any official to hold a person in a secret and/or unofficial place of detention. Any evidence obtained from a detainee in an unofficial place of detention and not confirmed by the detainee during interrogation at official locations should not be admitted as evidence in court.

(e) Regular inspection of places of detention, especially when carried out as part of a system of periodic visits, constitutes one of the most effective preventive measures against torture. Inspections of all places of detention, including police lock-ups, pre-trial detention centres, security service premises, administrative detention areas and prisons, should be conducted by teams of independent experts. When inspection occurs, members of the inspection team should be afforded an opportunity to speak privately with detainees. The team should also report publicly on its findings. When official, rather than independent, teams carry out inspections, such teams should be composed of members of the judiciary, law enforcement officials, defence lawyers and physicians, as well as independent experts. Ombudsman and national or human rights institutions should be granted access to all places of detention with a view to monitoring the conditions of detention. Where such inspection teams have yet to be established, International Committee of the Red Cross (ICRC) teams should be granted access to places of detention.

(f) Torture is most frequently practised during incommunicado detention. Incommunicado detention should be made illegal and persons held incommunicado should be released without delay. Information regarding the time and place of arrest, as well as the identity of the law enforcement officials having carried out the arrest, should be scrupulously recorded; similar information should also be recorded regarding the actual detention. Legal provisions should ensure that detainees are given access to legal counsel within 24 hours of detention. Security personnel who do not honour such provisions should be punished. In exceptional circumstances, under which it is contended that prompt contact with a detainee's lawyer might raise genuine security concerns, and where restriction of such contact is judicially approved,

it should at least be possible to allow a meeting with an independent lawyer, such as one recommended by a bar association. In all circumstances, a relative of the detainee should be informed of the arrest and place of detention within 18 hours. At the time of arrest, a person should undergo a medical inspection, and medical inspections should be repeated regularly and should be compulsory upon transfer to another place of detention. Each interrogation should be initiated with the identification of all persons present. All interrogation sessions should be recorded, and preferably videorecorded, and the identity of all persons present should be included in the records. Evidence from non-recorded interrogations should be excluded from court proceedings. The practice of blindfolding and hooding often makes the prosecution of torture virtually impossible, as victims are rendered incapable of identifying their torturers. Thus, blindfolding or hooding should be forbidden.

(g) Administrative detention often puts detainees beyond judicial control. Persons under administrative detention should be entitled to the same degree of protection as persons under criminal detention. At the same time, countries should consider abolishing, in accordance with relevant international standards, all forms of administrative detention.

(h) Provisions should give all detained persons the ability to challenge the lawfulness of and treatment in detention, e.g. through habeas corpus or amparo. Such procedures should function expeditiously.

(i) When a detainee or relative or lawyer lodges a torture complaint, an inquiry should always take place. A complaint that is determined to be well founded should result in compensation to the victim or relatives. In all cases of death occurring in custody or shortly after release, an inquiry should be held by judicial or other impartial authorities. A person found to be responsible for torture or severe maltreatment should be tried and, if found guilty, punished. Legal provisions granting exemptions from criminal responsibility for torturers, such as amnesties, indemnity laws, etc., should be abrogated. If torture has occurred in an official place of detention, the official in charge of that place should be disciplined or punished. Military tribunals should not be used to try persons accused of torture. Independent national authorities, such as a national commission or Ombudsman with investigatory and/or prosecutorial powers, should be established to receive and to investigate complaints. Complaints about torture should be dealt with immediately and should be investigated by an independent authority with no relation to that which is investigating or prosecuting the case against the alleged victim. In that context, countries should be guided by the Principles on the effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment as a useful tool in the effort to combat torture.

(j) Training courses and training manuals should be provided for police and security personnel and assistance when requested should be provided by the United Nations programme of advisory services and technical assistance. Security and law enforcement personnel should be instructed on the Code of Conduct for Law Enforcement Officials, the Standard Minimum Rules for the Treatment of Prisoners, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and these instruments should be translated into the

relevant national languages. In the course of training, particular stress should be placed upon the principle that the prohibition of torture is absolute and non-derogable and that there exists a duty to disobey orders from a superior to commit torture. Governments should scrupulously translate into national guarantees the international standards they have approved and should familiarize law enforcement personnel with the rules they are expected to apply.

(k) Health sector personnel should be instructed on the Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of detainees and prisoners against torture and other cruel, inhuman or degrading treatment or punishment (General Assembly resolution 37/194, annex). Governments and professional medical associations should take strict measures against medical personnel that play a role, direct or indirect, in torture. Such prohibition should extend to such practices as examining a detainee to determine his "fitness for interrogation" and procedures involving ill-treatment or torture, as well as providing medical treatment to ill-treated detainees so as to enable them to withstand further abuse.

(l) National legislation and practice should reflect the principle enunciated in article 3 of the Convention against Torture, namely the prohibition on the return, expulsion or extradition of a person to another State "where there are substantial grounds for believing that he would be in danger of being subjected to torture".